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CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTION OF FREEDOM OF EXPRESSION

Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Mr. Abid Hussain, submitted in accordance with Commission resolution 2000/38

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* The annexes are reproduced in English only.

Executive summary

This report is the eighth report submitted by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Mr. Abid Hussain, whose mandate was established by the Commission on Human Rights in its resolution 1993/45. The report is submitted pursuant to Commission resolution 1999/36. The report describes the activities undertaken by the Special Rapporteur and contains a discussion of pressing issues, a brief summary of urgent appeals and communications to and from the Governments, as well as the Special Rapporteur's conclusions and recommendations. With regard to the situation in countries, the Special Rapporteur has sent 16 allegations and 111 urgent actions during the year. It is significant to note that the Special Rapporteur has increasingly joined with other thematic mechanisms (the Special Rapporteur on torture, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Chairman of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on violence against women and the Special Rapporteur on education).

During the year under review, the Special Rapporteur has increased cooperation with other United Nations agencies, intergovernmental and non-governmental organizations. He has attended the Commonwealth Press Union biennial conference in Barbados (31 October-3 November 2000), a round table discussion on "The protection of journalists in conflict zones" in Germany (6 November 2000) and a seminar on "Information for democracy" in Peru (14-16 November 2000). Moreover, his close cooperation with UNESCO continued and increased collaboration was obtained with the OAS Special Rapporteur on freedom of expression and the OSCE Representative on freedom of the media.

Country visits are an essential aspect of the mandate. From 29 May to 2 June 2000, the Special Rapporteur undertook a mission to Albania. He has received invitations from the Governments of Egypt, Argentina and Peru and hopes to visit these countries in the course of 2001. He has requested invitations from the Governments of Angola, China, Colombia, Cuba, Equatorial Guinea, the Democratic People's Republic of Korea, India, Indonesia, Pakistan, the Russian Federation, Sri Lanka and Viet Nam to visit their countries, but he regrets that invitations from them have not so far been received.

On the basis of the communications received (more than 1,700 annually from a variety of sources), the report identifies "trends" that may encourage Governments to review practices and take remedial action when required. The Special Rapporteur also directs the attention of Governments to a number of issues of concern, urging them to review their approach to new technologies and to the right to freedom of opinion and expression of women. Concerns related to increasing violations committed by non-State actors are also raised.

The Special Rapporteur concludes the report with his recommendations. As the right to freedom of opinion and expression is violated regularly in States with widely different political and institutional frameworks, he urges Governments to scrutinize their domestic legal systems to bring them into line with international standards. The Special Rapporteur also encourages Governments to ratify the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, to amend criminal laws which may be used to infringe article 19 of the Universal Declaration of Human Rights, and to ensure

that press offences are no longer punishable by imprisonment. In addition, the Special Rapporteur draws the attention of the Commission on Human Rights to the increasing implication of non-State individuals and entities in violations of the right to freedom of opinion and expression and to the need for a coherent approach in this regard. Furthermore, the Special Rapporteur encourages Governments to reduce the gap between the technologically advanced countries and others. The Special Rapporteur continues to express concern at the continuing silencing of women and calls upon Governments to comply with Security Council resolution 1325 (2000), in which the Council urged States to ensure increased representation of women at all decision-making levels in national, regional and international institutions and mechanisms for the prevention, management and resolution of conflicts. Finally, the Special Rapporteur calls on Governments, NGOs and other specialized organizations to provide him with information relating to the issue of HIV and access to information, in order for him to present recommendations to the Commission on Human Rights at its next session.

Introduction

1. The present report is the eighth report submitted by Mr. Abid Hussain (India), Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. The mandate was established by the Commission on Human Rights in its resolution 1993/45 of 5 March 1993. This report is submitted pursuant to Commission resolution 2000/38. Section I of the report contains the terms of reference for the discharge of the mandate. Section II presents an account of the activities undertaken within the framework of his mandate in the past year. Section III provides a brief discussion on a number of issues which the Special Rapporteur considers to be important for the development of the right to freedom of opinion and expression. Section IV contains brief summaries of urgent appeals and communications to and from Governments, along with observations of the Special Rapporteur. Lastly, Section V contains the conclusions and recommendations of the Special Rapporteur.

I. TERMS OF REFERENCE

2. The Special Rapporteur refers to his previous reports as regards the mandate and methods of work adopted by him. The structure of the present report is along the same lines as the previous report. The main body of issues includes an analysis on communications received by the Special Rapporteur (in order to highlight trends), the role of the new information technologies and concerns relating to actions of non-State actors, as well as issues pertaining to the enjoyment of the right to freedom of opinion and expression of women.

II. ACTIVITIES

3. During the period under review, the Special Rapporteur sent 16 allegations and 101 urgent actions. Seeking to avoid unnecessary duplication of the activities of the other thematic rapporteurs and country rapporteurs, the Special Rapporteur has joined during the past year with the Chairman of the Working Group on Arbitrary Detention in 32 urgent appeals and with the Special Rapporteur on torture in 29 urgent appeals. In the course of the year, 13 urgent appeals and 1 allegation were sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, 2 urgent appeals with the Special Rapporteur on the independence of judges and lawyers, one with the Special Rapporteur on violence against women and 1 urgent action with the Special Rapporteur on education. Furthermore, the Special Rapporteur also joined with the Special Rapporteurs on the situation of human rights in the Democratic Republic of the Congo (four urgent appeals) and on the situation of human rights in the Sudan (two urgent appeals). Finally, five urgent appeals were sent together with the Special Representative on the situation of human rights in Iran.

4. On 28 August 2000, the Special Rapporteur sent a note verbale to all Member States drawing their attention to the Principles on Freedom of Information Legislation ("The public's right to know", E/CN.4/2000/63, annex II) and inviting Governments to reflect upon them and to submit their comments. The Special Rapporteur wishes to thank the Governments of the following countries which have sent a reply: Azerbaijan, Cuba, Latvia, Mexico and Qatar. He

awaits additional responses to undertake an in-depth analysis of the information submitted to him by Governments. It should be noted that the government replies received so far by the Special Rapporteur are available for consultation at the Office of the High Commissioner for Human Rights, in Geneva.

5. The Special Rapporteur has received a large number of allegations concerning cases of violations of the right to freedom of opinion and expression in 2000. As was the case in previous years, the Special Rapporteur was only able to deal with a limited number of requests for information from some Governments, owing to the insufficient financial and human resources to fulfil his mandate in the manner he would deem appropriate. The matters raised in previous reports to the Commission on Human Rights regarding the circumstances of work (E/CN.4/1995/32, paras. 92-95; E/CN.4/1996/39, para. 6; E/CN.4/1997/31, para. 7; E/CN.4/1998/40, para. 3; E/CN.4/1999/64, para. 3; and E/CN.4/2000/63, para. 4) unfortunately remain of great concern. The mandate requires a substantially increased pool of resources. Within the current constraints, the Special Rapporteur has engaged in an exchange of views with Governments only with regard to a limited number of cases, which are discussed in section IV.

6. It should thus be emphasized that the countries discussed in the respective sections in no way reflect the extent of the problem worldwide, as indeed violations of this right take place in almost every country, in spite of the emergence of an increasing number of national institutions which are working for the promotion and protection of human rights.

7. The Special Rapporteur cooperates closely with the treaty bodies and human rights field operations, as well as with other specialized bodies within the United Nations system, regional intergovernmental and non-governmental organizations, particularly at the local level, concerned with the right to freedom of opinion and expression. In this regard, the Special Rapporteur expresses his great satisfaction that the number of meetings and seminars he has attended and has been invited to has remained very high. However, owing to his heavy schedule, he has not been in a position to accept all the invitations transmitted to him.

8. The Special Rapporteur gave the keynote speech on press freedom and freedom of expression to the Commonwealth Press Union biennial conference, which was held in Bridgetown (Barbados) from 31 October to 3 November 2000. This conference brought together some 300 publishers, owners and editors from across the Commonwealth for three days of discussion and active debate.

9. The Special Rapporteur attended a round table discussion on "The protection of journalists in conflict zones" in Berlin (Germany) on 6 November 2000. This event was hosted by the Minister for Foreign Affairs of Germany, Joschka Fischer, and the Organization for Security and Co-operation in Europe (OSCE) Representative for freedom of the media, Freimut Duve. The Berlin Declaration adopted by the participants is attached as annex I to the present report.

10. From 14 to 16 November 2000, the Special Rapporteur attended an important seminar in Lima (Peru) on "Information for democracy", organized by the Peruvian Press Council. The seminar focused on the right to information as a key component of freedom of expression, government transparency and democratic accountability. The Special Rapporteur welcomes the

"Lima Principles" which were adopted at the end of the meeting (see annex II). This seminar was held at a time when political instability dominated the country. The Special Rapporteur felt that the quest for freedom of expression and access to reliable information was very important for the Peruvian people. This seminar also provided him with the opportunity to meet with local NGOs to discuss the situation of freedom of opinion and expression in Peru.

11. As far as the situation of freedom of expression in Latin America is concerned, the Special Rapporteur welcomes the adoption by the Inter-American Commission on Human Rights of the Declaration of Principles on Freedom of Expression on 20 October 2000 (see annex III). This declaration is aimed at ensuring more effective protection of the right to freedom of expression, fundamental for the consolidation and development of democracy.

12. In regard to cooperation with other intergovernmental organizations, the Special Rapporteur continued his collaboration with the Programme for Freedom of Expression, Democracy and Peace of UNESCO. The Special Rapporteur was also invited by UNESCO to the celebration on 3 May 2000 in Geneva of World Press Freedom Day, which was followed by a round table discussion on "The media in conflict and post-conflict areas". The Special Rapporteur again made concrete recommendations in his mission report this year (see report on the mission to Albania, E/CN.4/2001/64/Add.1, para. 116), encouraging the use of UNESCO expertise in the field of media legislation and the training of journalists in coordination with the programme of technical cooperation of the Office of the High Commissioner for Human Rights (OHCHR).

13. Positive steps have been taken to establish more systematic collaboration with the OSCE Representative on freedom of the media (Freimut Duve) and the Organization of American States (OAS) Special Rapporteur on freedom of expression (Santiago Canton). Following the first meeting between the three mechanisms last year (see E/CN.4/2000/63, para. 12), where cooperation was initiated, it was decided that they would meet on an annual basis in the context of an international seminar. Thus, on 29 and 30 November 2000, a second international seminar on promoting freedom of expression with the three specialized international mandates took place in London. It was the occasion not only to promote cooperation but also to share information and ideas on the issues of defamation law, contempt of court and hate speech, as well as to hear the views of NGOs and other experts. Areas of cooperation between the three were also discussed. Following the meeting, a joint statement was issued which focused on two issues of concern, namely, attacks on journalists and defamation law (see annex IV). It was also agreed by the three mandate holders that they would issue a joint statement on racism and the media as part of the preparations for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. It should be further mentioned that another joint press statement was issued on World Press Freedom Day, 3 May 2000, about the harassment and killing of journalists in conflict situations (see annex V).

14. In the context of this cooperation, the Special Rapporteur considers the participation of the OSCE Representative on freedom of the media (Freimut Duve) and the OAS Special Rapporteur on freedom of expression (Santiago Canton) in the annual session of the Commission on Human Rights to be of particular importance. He regrets that Mr. Santiago Canton's presence was questioned on certain technical grounds at the last session of the Commission, following a statement he made as a representative of the Inter-American Commission on Human Rights of

the OAS. The Special Rapporteur considers his collaboration with the two other mechanisms to be vital to ensure a coherent global strategy on freedom of expression. In this respect, he wishes to thank the United Kingdom Foreign Office as well as ARTICLE 19, the Global Campaign for Free Expression for their continued support.

15. The Special Rapporteur has been invited to the four regional expert seminars organized, as part of the preparatory process for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, in Africa, Asia, Latin America and in the Central and Eastern European region. This is in accordance with the General Assembly resolutions asking for contributions from other human rights mechanisms (53/132, para. 35; 54/154, para. 37), as well as Commission on Human Rights resolution 2000/14 asking the special rapporteurs concerned to participate actively in the preparatory process. In paragraph 13 (g) of its resolution 2000/38 on the right to freedom of opinion and expression, the Commission requested the Special Rapporteur to contribute effectively to the preparatory process for the World Conference by transmitting to the High Commissioner his recommendations on freedom of opinion and expression which have a bearing on the Conference. In this connection, the Special Rapporteur intends to present a submission to the High Commissioner for Human Rights which would also be submitted as an official document for the next session of the Preparatory Committee of the World Conference.

16. Additionally, the Special Rapporteur attended the seventh meeting of special rapporteurs/ representatives, experts and chairpersons of working groups of the special procedures and advisory services programme, held in Geneva from 5 to 9 June 2000 (see E/CN.4/2001/6, annex).

17. Furthermore, the Special Rapporteur visited Geneva from 5 to 10 April 2000 for consultations and to present his report to the Commission on Human Rights at its fifty-sixth session. During this period, the Special Rapporteur held a press conference and organized a briefing for NGOs which were both very well attended. He also met with various delegations, and discussed his intentions of undertaking field visits with the Ambassadors of Albania, Egypt, Peru, the Russian Federation and Sri Lanka.

18. Finally, the Special Rapporteur considers the carrying out of country visits to be an essential element of the mandate. From 29 May to 2 June 2000, the Special Rapporteur undertook a mission to Albania. For this visit, he has submitted a separate report to the Commission at its current session (E/CN.4/2001/64/Add.1).

19. During the year under review, the Special Rapporteur has pursued his efforts to obtain invitations to visit the following countries: China, Indonesia, the Democratic People's Republic of Korea, Sri Lanka and Viet Nam to examine in situ the situation with regard to the realization of the right to freedom of opinion and expression. In the course of 2001, he hopes to be able to visit the three countries which have invited him in 2000 (Argentina, Egypt, Peru). Moreover, the Special Rapporteur has also sent additional official requests for invitations to visit Angola, Colombia, Equatorial Guinea, India and Pakistan.

20. The Special Rapporteur would like to reiterate that the role of non-governmental organizations in furthering the promotion and protection of the right to freedom of opinion and expression cannot be underestimated. Indeed, it is those organizations which spearhead these concerns and are forcefully advocating, monitoring and lobbying for human rights. Some of them went out of their way to volunteer their time to help the Special Rapporteur. He wishes to express his special thanks to ARTICLE 19, the International Centre Against Censorship, which continues to provide information and material relevant to the promotion and protection of the right to freedom of opinion and expression to the Special Rapporteur.

21. In this connection, the Special Rapporteur welcomes the appointment of a Special Representative of the Secretary-General on human rights defenders (Ms. Hina Jilani). He considers this new thematic mechanism to be complementary to his own mandate and that it constitutes an important step towards better promotion and protection of the right to freedom of opinion and expression.

III. ISSUES

A. Trends

22. As was the case last year, during the period under review, the Special Rapporteur has noted a number of characteristics common to the violations reported to him in the framework of his mandate and believes that it would again be helpful to consider what may be called "trends". It is his hope that the identification of these trends will encourage Governments to review practices and take remedial action where required. It is also hoped that this work will assist OHCHR in developing programmes of technical assistance for interested Governments which will accelerate the process of eliminating the causes of violations of freedom of opinion and expression, the right to information and associated rights.

23. The Special Rapporteur again acknowledges that in a number of countries independent media, professional or collegial associations and non-governmental organizations have been allowed to form and function. In such cases, there may well be a continuing need for training and guidance in order to raise professional standards and to develop the capacity of such bodies to thrive in a self-regulating environment. It is the Special Rapporteur's strongly held view that Governments have a duty to create and encourage an enabling environment in which such training and professional development can be organized and carried out without fear of legal, criminal or administrative sanction by the State.

24. The Special Rapporteur received over 1,700 communications from a variety of sources: international, regional, national and local non-governmental organizations, associations of media professionals, trade unions, members of opposition political parties, human rights defenders and activists, concerned individuals and others. It must be emphasized again that resource constraints do not permit the Special Rapporteur to respond to, or act upon, every communication received.

25. That being said, it can again be confidently stated that these communications are not confined to alleged violations in countries in which the political and institutional arrangements are implicitly or explicitly undemocratic. It is important to note that allegations refer to incidents

and instances in which the rights to freedom of opinion and expression, information, association and assembly are infringed or violated in both emerging democracies and countries with long-established democratic institutions, practices and traditions. It is true, however, that the preponderance of allegations refer to situations where: (a) the legal and institutional protections and guarantees of human rights are, to a greater or lesser degree, circumscribed; (b) internal armed conflict or severe civil unrest exists; or (c) legal and institutional protections and guarantees exist but are not properly implemented.

26. A majority of cases received by the Special Rapporteur relate to violations and actions taken against media professionals. Similar actions and violations of rights also occur, however, in relation to political groups, members of opposition political parties, pro-democracy activists, lawyers, students, academics, trade unionists and their leaders, persons participating in general strikes, women, peasants, members of religious minorities, persons belonging to minorities, authors and poets, cartoonists, newspaper vendors, distributors and printers, medical personnel and others.

27. With these points in mind, the Special Rapporteur directs the attention of Governments to the following general trends in terms of violations of freedom of opinion and expression and related rights and strongly urges them to take all appropriate actions, consistent with the standards set out in the International Bill of Human Rights and associated instruments, to eliminate not only the violations themselves but also their causes and negative consequences.

1. Attacks, threats, harassment, physical harm

28. The Special Rapporteur notes with great concern the extent to which efforts to exercise peacefully - and, in some cases, in a professional capacity - the rights to expression, opinion, information, association and assembly continue to carry the very real possibility of physical threat or harm. He would particularly like to express his deep preoccupation at the number of cases in which that effort has lethal consequences. In those cases, it can be said that there exists "censorship by killing", carried out by all manner of agents of the State or persons with a perceptible, although perhaps not formal, affiliation with the State.

29. Acts of physical harm, threats or attacks against individuals exercising their right to freedom of opinion and expression, whether in a professional manner or not, referred to in communications by the Special Rapporteur have included: shooting and summary executions; death threats; kidnapping and torture of journalists in efforts to force them to reveal sources; attacks by police and military personnel on newspaper offices and homes; assaults and beatings in the context of elections and voting; use of pepper spray and beating by soldiers or police of participants in, or journalists covering, demonstrations and protests; surveillance of journalists by members of the armed forces; summoning of journalists to the presidential residence, the office of the Attorney-General, armed forces headquarters or police stations for "informal talks", warnings and reprimands; occupation of a newspaper office by the civilian guard.

30. The Special Rapporteur has also noted a significant number of cases in which individuals were subjected to intimidation and harassment in the form of: the issuance against journalists of accusations of "wanting to set fire" to the country, of publishing "lies and hypocrisies" or "false

news", or of "fuelling anti-government sentiment"; instructions to party members and local administrations to "find journalists and break their bones"; searches of newspaper offices for "subversive and incriminating documents"; the labelling of journalists as "criminals"; warning journalists against reporting "garbage" about government leaders and leaders of opposition parties; threats against journalists for "continuous negative coverage of activities in the State".

31. The Special Rapporteur has noted that such violations seem to have often occurred: following the publication of accounts of police misconduct, excessive use of force, procedural irregularities in investigations or failure to investigate; as a result of commentary on corruption, involvement in criminal activities and wrong-doing by public officials, by members of the armed forces or the police, by members of municipal, State, regional or federal authorities, or by business and other elites; in State-sanctioned actions to suppress or disperse public demonstrations and protests; in response to the broadcasting of images of army or police repression against demonstrators; in response to published reports on poor and life-threatening conditions in prisons; in response to visits by media professionals to countries that do not enjoy friendly relations with the State.

2. Arrest, detention and related actions

32. Despite changes in the legal and policy frameworks based on the rule of law and respect for rights in a number of countries, there continue to be many cases of arrest and detention without charge or without a legitimate legal basis, or following judicial proceedings of doubtful relevance.

33. The Special Rapporteur has observed that, in the past year, individuals have been arrested and or detained on charges: of acting in a manner "prejudicial to the safety of the State; of participating in a peaceful rally to protest election fraud; of "criminal malevolence" for having reported racketeering and corruption in government and State-run companies; of having "obstructed the implementation of martial law" and for having "instigated a violent incident"; of "insulting the head of State and inciting hatred"; of "collecting dissident news and secretly distributing copies of a monthly" linked to an opposition party; of treason for having provided medical treatment to members of an armed liberation movement; of "insulting the magistracy" and "violating the press law"; of having produced a film damaging to the country's reputation abroad; of having published "anti-patriotic information" and statements considered "seditious and anti-nationalist"; of having "distributed and disclosed false news"; of having made "damaging accusations"; of "the purchase and illegal provision of intelligence to foreign people".

34. Such actions against journalists and others have often followed the publication of articles, for example: on police abuse of force causing death; about discontent in the armed forces; revealing misappropriation of funds by a government agency; on local corruption; on a weak voter turn-out for municipal elections and the deteriorating economic situation; on a person who had been tortured while in the custody of the presidential guard; calling on government forces to respect the human rights of those campaigning against impunity; containing objectionable language.

35. Furthermore, the Special Rapporteur has noted that such measures have been taken by the police, military, security forces or other government authorities in relation inter alia to: investigations into embezzlement by government officials; the coverage of activities in a refugee camp; the distribution of foreign news articles; a government campaign against "western bourgeois ideas"; the coverage of a protest movement; complaints by private business elites who were implicated in wrongdoing in published articles; a demonstration calling for law reform; "refusal to testify"; the broadcasting of a music video that "violated mores".

36. It should be noted that, if a majority of cases of arrest and detention involved journalists and other media professionals, communications received by the Special Rapporteur this year have also referred, inter alia, to the chairman of a political party charged with planning to hold an unauthorized demonstration and to leaders of an underground cultural movement. It should also be noted that, in a number of these cases, arrest or detention was either preceded by a raid on home or office or by summary action in public places. These actions often resulted in the peremptory and unlawful seizure of such materials as books, magazines, pamphlets, research, video and audio equipment, business documents, computers and other kinds of equipment used by the broadcasting media.

3. Administrative and legal measures

37. As some countries slowly make the transition from outright repression to a framework of governance somewhat more consistent with the rule of law and respect for rights, a pattern of administrative and/or legal sanctions which fall short of arrest or detention is emerging. These sanctions result in violations which - while perhaps less intense in their effect than killing, arrest or detention - still result in violations and infringements of the rights that are the subject of this mandate. In a number of cases, the sanctions have a direct, immediate and significant negative impact on the right to seek, receive and impart information. As such, they are of grave concern to the Special Rapporteur and he reminds Governments of their duty to take immediate remedial action to eliminate these sanctions from law and practice.

38. A significant number of cases brought to the attention of the Special Rapporteur concerned bans, closure or seizure of publications and/or other media, such as: the closure of a radio station that had aired a call by political parties for a mass gathering; the closure of a newspaper for reprinting allegations of corruption published by foreign media; the barring of a weekly for allegedly having published defamatory articles about a religious leader; the closure by religious courts of reformist publications; the closure of a radio station on the grounds that it was owned by foreigners; an attempt to close a newspaper through retroactive application of law; the suspension of a weekly that allegedly defamed members of the Government; the suspension of a weekly for "publication of false news"; the banning of a weekly for promoting "anti-country feelings"; the confiscation by police of copies of an independent newspaper; the seizure of publications published outside the country which allegedly supported a foreign regime; the suspension of publications for "defiance of authority", and "unbalanced reporting"; the refusal to license a publication because of the editor's link to the political opposition; the seizure and/or banning of weeklies for publishing interviews with, e.g. the leader of an opposition group or exiled critics of the Government.

39. In a number of cases, measures taken by the authorities against media outlets and actors took the form of the issuing of bans, inter alia on: covering official functions; reporting on military issues; demonstrations by opposition political parties; protest marches, so as not to "embarrass the Government"; political and cultural magazines in order "to protect general security, safety and public order"; a book describing a massacre of religious youth by police. The Special Rapporteur also received cases referring to: a presidential decree of a total media blackout on a murder attempt against a journalist; the closure of publications for having published articles without official permission; the suspension of a radio station for having broadcast one verse of a poem by a writer who was imprisoned.

40. In addition to these types of administrative measures, the Special Rapporteur has also observed the use of technical and financial measures to impede the right to seek and impart information, measures such as: cutting off electricity to a television station that was broadcasting an interview with a rebel commander; a power blackout silencing media outlets while a state of emergency was declared in response to a social protest movement; the seizure of equipment from a wire service on the basis that it was operating without a permit; the jamming by State-owned media of signals and/or radio programmes of foreign broadcasting services; the seizure of equipment of an independent printing press on the grounds that it belonged to a foreign organization that owed the Government money; the imposition of a fine on bookstores; the seizure of foreign publications featuring articles about an opposition leader, on the basis that the articles were "derogatory to national prestige"; the fining of persons seeking to establish a non-government radio station; the closure of a printing house which was critical of the authorities and was sued for "insulting the nation".

41. Furthermore, it has been noted that pressure has been exerted on media professionals and others through such administrative measures as: the dismissal of journalists and media personnel, inter alia for having broadcast images of pro-democracy protests and for being biased against the governing party; the denial of licences to private stations; the denial of entry permits to, or expulsion of, journalists, authors and editors on the basis that they are "undesirable", the withdrawal of journalists' accreditation or imposition of lifetime bans for such reasons as "distributing information of a tendentious and malicious nature on the socio-political situation" in the country, "with the intention of tarnishing the country's image of peace and stability", or writing on relations between a State and a neighbouring country.

42. The recourse to legal and legislative measures has also been noted by the Special Rapporteur, for instance: the filing of suits by the authorities against journalists whose work they find "insults the honour and dignity of the State and the people" or is "contrary to national interests"; charges of "incitement to violence and rebellion" brought against a journalist under the Public Safety Act; amendments to the publications law that make the printing of foreign newspapers subject to the approval of the Minister of the Interior; indictment for blasphemy against a religion and its founder; prosecution of reformist dailies for having reprinted an interview with a public figure under house arrest; a press and publication law that criminalizes the publication of materials that "sully public morals"; prosecution of a singer for having "insulted religious values"; the sentencing of two women novelists and a publisher for publishing work that included "expressions that violate God, and indecent and shameless expression".

4. Defamation

43. It will be recalled that in his report to the Commission on Human Rights at its fifty-sixth session (E/CN.4/2000/63) the Special Rapporteur devoted considerable attention to the issue of criminal libel and defamation. Similar to the use of administrative and legal sanctions to inhibit free expression and access to information, the cases received in the past year clearly demonstrate that the abuse of libel and defamation laws continues apace and there has been no significant decrease in the manipulation of such laws by key public figures, both State and private, with the aim of limiting the scope and content of press and other kinds of reports.

44. A summary review of the cases received revealed recourse to such laws in response to disclosures and/or publications about: the incompetence of an official; the link between the police and drug traffickers and/or between the Attorney-General and drug traffickers; the failure of a president to make good on election promises; the involvement of a minister in a corruption case; the issuance of false charitable receipts by religious entities; the refusal of a governor to authorize payment of salaries to public employees for three months; the acceptance of a bribe by a judge to decide in favour of one parliamentary candidate over another; the weak reaction of the authorities to racist attacks against nationals residing in a neighbouring country; the threat of a defamation suit to force a journalist to stop working with the independent press; the construction of a multi-billion dollar hydroelectric power project in which one of the players was characterized as "corrupt".

45. The information brought to the attention of the Special Rapporteur also referred to such cases or subjects as: the implication of a member of the military in the assassination of the financial director of a district; the implication of a religious leader in a killing; corruption in the presidential palace; "insults" against a member of Parliament; the publication of an article deemed offensive to the Supreme Court; links between local law enforcement and organized crime; administrative irregularities in a district judiciary that included the blackmailing of local mayors and abuse of authority; irregularities in the privatization process of a State-owned company; the use of power and influence to gain advantage.

46. Several cases were also brought to the attention of the Special Rapporteur regarding prohibitive fines for libel which in a number of instances would strangle economically the independent press, a political party, an association or any individual. In this regard the Special Rapporteur considers that disproportionate remedies or sanctions can significantly limit the free flow of information and ideas.

47. In the light of the cases received this year, the Special Rapporteur would like to reiterate the recommendations made in his previous report (E/CN.4/2000/63 para. 52) and to urge Governments to:

(a) Repeal criminal defamation laws in favour of civil laws;

(b) Limit sanctions for defamation to ensure that they do not exert a chilling effect on freedom of opinion and expression and the right to information;

(c) Prohibit government bodies and public authorities from bringing defamation suits with the explicit purpose of preventing criticism of the Government or even of maintaining public order;

(d) Ensure that defamation laws reflect the importance of open debate on matters of public interest and the principle that public figures are required to tolerate a greater degree of criticism than private citizens;

(e) Qualify only patently unreasonable opinions as defamatory;

(f) Stipulate that defendants are not required to prove the truth of opinions or value statements;

(g) Ensure that the onus of proof is on those claiming to have been defamed and not on the defendant(s);

(h) Provide a range of remedies in addition to damage awards, for example, apology and/or correction.

48. In this connection, the Special Rapporteur would like to endorse the Principles on Freedom of Expression and Protection of Reputation[1] that have been developed by ARTICLE 19, the Global Campaign for Free Expression.

B. Non-State actors

49. The Special Rapporteur wishes to bring to the attention of the Commission on Human Rights and all Governments grave concerns about the actions of non-State actors which, in their effect, infringe upon or negate the rights to opinion, expression, information, assembly and association. In this regard, the Special Rapporteur notes that the traditional approach to the negation of the rights that are set out in international human rights instruments is generally confined to the question of violations of rights by Governments and their agents. Rightly, concern is expressed that any attempt to address the actions of non-State actors runs the risk of detracting from the responsibility of States not to violate the rights of citizens and others living within their territories. The Special Rapporteur also notes that the question of non-State actors has been traditionally defined as relating to the duty of States to exercise due diligence and to ensure that individuals and collective private entities respect the law and do not abuse or infringe upon the rights of others.

50. The Special Rapporteur accepts that the primary attention must continue to be focused on the commissions and omissions of Governments which lead to violations of fundamental rights. At the same time, however, he cannot remain indifferent to the fact that, with regard to the rights that are the subject of this mandate, an increasing number of actions by non-State individuals and entities have a marked and severely negative impact on the enjoyment of those rights by others.

51. A review of the communications received clearly indicates that, in a number of instances, the effect of these non-State actions is to impose "repression and intimidation by proxy". The "proxy effect" is either evident to the extent that the persons or groups involved are clearly

affiliated with the ruling party - whether elected or self-appointed - or can be inferred from the facts as presented. Other cases may be characterized as "repression and intimidation by neglect", to the extent that the State consistently fails to meet its obligation to exercise due diligence and does not ensure that the police, the judiciary and other legally constituted bodies responsible for law and order properly and fully investigate crimes and related actions and hold those responsible to account.

52. The Special Rapporteur also acknowledges that there are circumstances in which the Government does not have effective control of territory within its own boundaries. Under such circumstances, it may not be possible for the State, at that time, to investigate, identify those responsible and ensure that their actions are properly and, under international legal definitions, lawfully sanctioned. The Special Rapporteur would observe, however, that difficulties in the immediate term do not relieve the State of its duty to exercise due diligence in the name of justice for the victims as soon as conditions permit. The Special Rapporteur would also observe that, in an effort to assert or regain control over territory within its boundaries, the State may not engage in actions that, by their very nature, violate rights or are of such a severe nature as to cause those targeted for such actions to react in ways that infringe or negate the rights of innocent persons who, very simply and often, have become trapped in the middle of a war of attrition.

53. With those points in mind, the Special Rapporteur notes that, in the past year, he has received cases of, among others, the following violations involving paramilitary groups, guerrillas, terrorist groups, mobs and traffickers: the kidnapping of journalists by guerrillas because of the failure of the press to disclose information about human rights violations committed by the army; the kidnapping of journalists by rebels calling on the Government to pledge money for road improvements; the kidnapping of foreign journalists and their use for ransom by armed opposition groups; the murder of journalists by members of a paramilitary group covering municipal elections; a bomb threat, possibly from paramilitaries hostile to a newspaper's editorial content; the shooting of a journalist who covered criminal bike gangs for years; the murder of a journalist who had reported on the illegal activities of a local mafia involved in drug-trafficking; the abduction by militants of reporters covering a hostage crisis; the sending of a parcel bomb to a journalist by a terrorist or group in armed opposition; the burning of copies of a newspaper by armed rebels.

54. Moreover, the Special Rapporteur noted a significant number of actions taken against media professionals by members of various opposition groups, political and religious groups, such as: an assault on a journalist by Communist militants; an attempt by students to burn down the offices of a newspaper; threats by security guards of an opposition party and an attempt to prevent journalists from covering a meeting of the party; the siege of an independent newspaper's offices by supporters of the prime minister criticizing the bias in pre-election coverage; a bomb attack on the offices of a daily newspaper by members of an armed secessionist movement; the bombing of a journalist's home by members of an armed independence movement; the murder of a journalist by members of an armed underground movement following articles critical of such movements; an attack on press vehicles by members of an armed opposition group; a ban by an opposition party on the media covering its election

activities; death threats against editorial staff by a religious militia; the denunciation of a private radio station by the Church for "dangerous proselytism"; an attack by activists on video shops on the basis that they were "immoral" businesses.

55. Many other cases of violations reported to the Special Rapporteur involved other non-State actors, for instance: the shooting of a lawyer who specialized in labour issues and labour rights; the murder of journalists critical of the local administration by gunmen financed by "rich people in the area"; the setting alight of a journalist who had reported on corruption in the privatization of State businesses; an attack by youths on a journalist covering a students' meeting; an assault on reporters by polling station monitors; attacks on journalists by groups of demonstrators; the bombing of a radio station that had reported on incidents relating to a general strike; the murder of a journalist by a former public official following published comments that his resignation was linked to alleged misconduct; the ransacking and burning of a newspaper office by a mob protesting the murder of a leading religious scholar by unknown gunmen.

56. In the light of these and other cases, the Special Rapporteur invites the Commission on Human Rights to consider how and by what means the international community may give continuing and coherent attention to the question of non-State actors and actions by them that infringe upon or negate the internationally recognized rights to freedom of opinion, expression, information, belief and conscience, assembly and association.

C. New technologies

57. It will be recalled that in his report to the Commission on Human Rights at its fifty-fourth session (E/CN.4/1998/40) the Special Rapporteur devoted considerable attention to the question of new technologies and, in particular, concerns expressed about the uses being made of the Internet. The Special Rapporteur noted an increasing interest on the part of some Governments, organizations and individuals in the question of whether or not it was possible to devise a generally applicable regime for regulation of the Internet. The heightened interest in regulation arose, at least in part, from concerns relating to privacy, the dissemination of pornography, racism and hate speech, and the use of the technology to promote, for example, child sex tourism, trafficking in persons and other activities or ventures that are increasingly viewed with opprobrium by individuals and the international community.

58. It will also be recalled that faced with the mounting pressures for the development of some sort of regulatory regime, the Special Rapporteur stated (para. 45) that the new technologies and, in particular the Internet "are inherently democratic, provide the public and individuals with access to information sources and enable all to participate actively in the communication process". At that time, the Special Rapporteur stated (para. 116) with regard to the Internet, that on-line expression should be guided by international standards and be guaranteed the same protection as is awarded to other forms of expression. Nothing has occurred since the report was prepared for the fifty-fourth session that would cause the Special Rapporteur to change his views on this subject.

59. On the contrary, the Special Rapporteur looks with dismay on the information he has received on the efforts of some Governments either to control or shut down access to the Internet. Some of the communications received by him referred to: the closure of a weekly

compromised and powerful private actors can effectively buy secrecy "even for information that reveals serious threats to public health and safety.[4] The report further notes that the promotion of human rights norms can and should occur on three fronts: education of people about human rights; sensitizing officials to human rights; and mobilizing public opinion through the media.[5]

68. The Special Rapporteur concurs with the view stated in the report that the Internet is an important and related tool in the promotion of human rights and an effective means to disseminate information on civil, cultural, economic, political and social rights and violations of them. The Special Rapporteur firmly believes that the Internet has the potential to become one of the most effective tools available to fight against poverty and exclusion, on whatever grounds.

69. The Special Rapporteur further notes that, with regard to reducing global inequality and the marginalization of both people and nations, it will not be enough simply to install the "hardware" required in as many places as possible, as quickly as possible. With this in mind, the Special Rapporteur has noted proposals to establish regional centres of technology with the goal of providing research results, based on appropriate criteria, to poor people through the Internet and other technologies that reduce costs. While this kind of thinking and action is to be encouraged, the Special Rapporteur would again remind States that they must also ensure that there is adequate and unfettered "social and political space" in which the new technologies can be developed in a self-regulating environment and where the exercise and enjoyment of the rights to expression, opinion, information, association and assembly can flourish. In the absence of freedom from excessive regulation and adequate space for expression, participation and action, the results of research will have no meaning and genuine participation, progress and human development will not happen.

D. Women

70. The Special Rapporteur regrets that it has not been possible, thus far, to organize a joint mission with the Special Rapporteur on violence against women in order to assess the relationship between incidents of violence against women and the lack of effective enjoyment of the rights to opinion, expression, information, assembly and association. Neither has it been possible, to date, for the two Special Rapporteurs to develop a framework within which a joint report could be prepared and submitted to the Commission on Human Rights on this or a related matter.

71. That being said, the Special Rapporteur feels it necessary and appropriate to offer the following views with regard to "women, peace and security" as a part of his continued efforts to address consistently the situation of women and their ability, or not, to exercise freely the rights that are the subject of this mandate. During the October 2000 special session of the Security Council - on women, peace and security - the Secretary-General of the United Nations stated that "the potential contribution of women to peace and security remains severely under-valued. Women are still grossly under-represented at the decision-making level, from conflict prevention to conflict resolution to post-conflict reconciliation".

72. The Special Rapporteur was informed that some of the statements made by participants in that special session referred to the experience of women and girls during armed conflict. For example: in the absence of gender sensitivity, women who have been raped and/or sexually

assaulted during armed conflict will not report the incident for fear of being stigmatized or some other potential effect of identifying herself publicly; electoral systems must take women into account, as voters or as candidates; civilian police must address the issues of trafficking and sexual violence which are associated with conflict.

73. The Special Rapporteur has taken note of resolution 1325 (200) adopted by the Security Council following this special session and emphasizes several elements of it for the benefit of the Commission on Human Rights and all States. In that resolution the Security Council, inter alia: stressed women's equal participation and full involvement in all efforts for the maintenance and promotion of peace and security, and the need to increase their role in decision-making with regard to conflict prevention and resolution; called upon States to ensure increased representation of women at all decision-making levels in national, regional and international institutions and mechanisms for the prevention, management, and resolution of conflict; and requested the Secretary-General to provide to States training guidelines and materials on the protection, rights and the particular needs of women, as well as on the importance of involving women in all peacekeeping and peace-building measures.

74. The Council also called on all actors involved, when negotiating and implementing peace agreements, to adopt a gender perspective, including: measures that support local women's peace initiatives and indigenous processes for conflict resolution, and that involve women in all of the implementation mechanisms of the peace agreements; and measures that ensure the protection of and respect for the human rights of women and girls, particularly as they relate to the constitution, the electoral system, the police and the judiciary. The Council also invited the Secretary-General to carry out a study on the impact of armed conflict on women and girls, the role of women in peace-building and the gender dimensions of peace processes and conflict resolution. The Special Rapporteur looks forward to the completion and publication of this study, with the hope that aspects of the rights to opinion, expression and information - and violations of those rights directed against women - will figure prominently in it.

75. In conclusion, the Special Rapporteur has raised the issue of women, peace and security out of a deep concern that women are not full participants in efforts to prevent, stop and recover armed conflict. The Special Rapporteur again emphasizes that effective participation depends on the ability to express oneself freely, to have access to the materials needed in order to have an informed opinion, to join with others in common cause for the common good, and to meet openly and without fear in order to discuss more widely the issues at hand and to act upon the decisions taken. None of these actions is possible when the rights to opinion, expression, information, assembly and association are violated. Thus, to the extent that there continues to be either advertent or inadvertent exclusion of women from peace processes, or the consciousness and deliberate enactment or application of laws that discriminate against women, their rights will always be violated and their participation in such critical areas as peace and security will continue to be unlawfully limited.

76. In the light of the above, the Special Rapporteur would urge States to weigh very carefully all of the points raised during the special session of the Security Council and to take all necessary remedial action, including law reform, to correct what is clearly an unbalanced and discriminatory situation.

IV. COUNTRY SITUATIONS

77. This section contains brief summaries of urgent appeals and communications to and from Governments, along with observations of the Special Rapporteur. In view of the time required for Governments to respond, only the communications sent before 15 December 2000 are included in the report.

Afghanistan

Communication sent

78. On 24 October 2000, the Special Rapporteur sent a communication to the Taliban authorities requesting information concerning their alleged control over the print and broadcast media, in particular the ban on television, the control over editorial work and the strict control over photography. In this context, it was reported that, on 11 August 2000, three foreign journalists, Khawar Mehdi, Jason Flario and Pepe Scobar, were arrested for taking pictures during a football match. The Special Rapporteur also raised the issue of the work of foreign journalists, which is reportedly extensively restricted by a list of "21 points to be respected". In the same communication, the Special Rapporteur also transmitted cases of intimidation, harassment and violence towards journalists in exile. The following cases were also mentioned: the murder of Mohammad Hashim Paktianae on 2 November 1998 in Hayatabad; the murder attempt against Najeeda Sara Bid on 5 October 1998 in Peshawar (Pakistan); and the death threats received by Inayat-ul-Hay Yasini on 4 July 2000 in connection with the publication of the findings of an opinion poll carried out among Afghan refugees living in camps in Pakistan.

Observations

79. No reply has been received so far.

Albania

80. From 29 May to 2 June 2000, the Special Rapporteur undertook a visit to Albania, on which he has reported separately to the Commission at its present session (E/CN.4/2001/64/Add.1).

Algeria

Communication sent

81. On 18 October 2000, the Special Rapporteur sent a communication requesting information on government practices and measures which ensure a de facto control of print media by the State, in particular the extensive control over printing activities exercised by the five State printing companies (El Moudjahid (SIMPRAL), the Entreprise algérienne de presse (ENAP), the Société d'impression d'Alger (SIA), the Société d'impression de l'Est (SIE), the Société d'impression de l'Ouest (SIO)), as well as the control of paper imports by the State enterprise Algérienne du papier (ALPAP), a control mainly exerted through the alleged use of financial debts to silence certain publications. It was notably reported that the SIA suspended

the printing of the weekly El Borhane only a month after its first issue in July 1998, allegedly because of a previous agreement of the weekly with SIMPRAL, which continuously refused to issue it. The publication of El Borhane was reportedly interrupted twice subsequently, in April 1999 and again on 2 January 2000, after the SIA requested payment of the weekly's debt. The Special Rapporteur also brought to the attention of the Government three cases of alleged disappearance of journalists: Djamil Eddine Fahassi, who disappeared on 6 May 1995; Salah Kitouni, who has not been seen since 9 July 1996; and Aziz Bouabdallah, who disappeared on 12 April 1997 and on behalf of whom the Special Rapporteur had sent a communication on 13 November 1997. The Special Rapporteur requested to be kept informed of the measures taken by the Government to elucidate these disappearances.

Observations

82. No reply from the Government has been received so far.

Angola

Communications sent

83. On 15 February 2000, the Special Rapporteur, jointly with the Chairman-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal regarding the arrest of Andre Domingos Mussamo, a journalist for the Radio Nacional de Angola and Folha 8, on 2 December 1999. According to the information received, he was detained by the Police Criminal Investigation Department (DNIC) in N'Dalatando, allegedly in connection with an unpublished article he wrote referring to a letter from the provincial governor to President dos Santos.

84. On 1 November 2000, the Special Rapporteur sent a communication concerning the drafting of a new press law. The Special Rapporteur welcomed the initiative and the fact that an open public debate on the draft law was taking place, and expressed his wish that the public's views would be taken into consideration in the elaboration of the law. At the same time, the Special Rapporteur voiced his concern at some provisions of the draft, in particular articles 53, 55, paragraphs 2 and 3, and 57, in accordance with which press offences, as well as the publication of information considered as State secrets, would be punishable by terms of imprisonment of from 2 to 8 years.

85. On 17 November 2000, the Special Rapporteur transmitted a communication to the Government requesting information regarding the judicial harassment to which the privately-owned weekly Folha 8 has reportedly been subjected since October 1999. The Special Rapporteur referred in particular to the detention of William Tonet, editor of Folha 8, on 2 October 1999, allegedly in connection with his articles on government corruption; to the prohibition of travel delivered on 31 October 1999 to Gilberto Nero, a journalist for Folha 8, allegedly in relation with an article concerning the arrest in August 1999 of journalists of Rádio Ecclesia. Furthermore, it has been reported that Mr. Tonet, along with Joaquim Manuel Aguiar dos Santos, director of Agora, and Leopoldo Baio, director of Actual, were ordered to retract stories concerning government corruption on 10 December 1999. The Special Rapporteur also transmitted a series of allegations concerning the following persons: Josefa Lamberga, a

journalist with Voice of America, who was assaulted by a soldier on 28 April 1999; Isidoro Natalicio, a journalist based in N'Dalatando, who was subpoenaed on 7 November 2000 by the DNIC in connection with a report issued on Radio Ecclesia about a public rally, and who also has an appeal pending in the provincial court against an eviction order to leave his home, issued on 20 June 2000, allegedly because of his journalistic activities; Jose Paulo, director of information for Radio Ecclesia, who was reportedly kidnapped by four unidentified armed men on 25 June 2000 in Luanda, allegedly in connection with earlier broadcasts on Radio Ecclesia about government corruption and acts of intimidations committed by the authorities; Isaias Soares, a journalist for Voice of America and Radio Ecclesia, who was banned on 2 August 2000 from covering official events and reporting on military issues in Malanje.

Visit

86. In his communication dated 17 November 2000, the Special Rapporteur requested the Government to extend an invitation to him to carry out an official visit to Angola in the near future.

Observations

87. The Special Rapporteur has been informed that Rafael Marques, on behalf of whom he had sent an urgent appeal on 20 October 1999 (see E/CN.4/2000/63, para. 59) was convicted on 27 October 2000 to a six-month suspended prison sentence on charges of defamation, injury and slander against the President. In the context of the sentencing of Rafael Marques and of the content of the new draft press law, the Special Rapporteur wishes to reiterate that, as recommended in his previous report to the Commission on Human Rights (E/CN.4/2000/63), Governments should, in accordance with international standards, "ensure that press offences are no longer punishable by terms of imprisonment". The Special Rapporteur would also like to reiterate his wish to undertake an official visit in Angola in the near future. Furthermore, he awaits replies from the Government.

Argentina

88. An official invitation to carry out a visit to Argentina was extended to the Special Rapporteur by the Government on 30 March 2000. The Special Rapporteur hopes to undertake this visit in 2001.

Azerbaijan

Communications sent

89. On 6 December 1999, the Special Rapporteur sent a communication concerning the new draft law on the independence of the mass media. The Special Rapporteur voiced his concerns that the provisions for the registration of mass media outlets with the Ministry of Justice rather than the Ministry of Information and the Press could lead to stricter control over the press and the media, especially with regard to granting licences, accreditation of journalists, widening the scope of what is considered as defamation, and court proceedings against the mass media.

90. On 2 June 2000, the Special Rapporteur sent a communication regarding the closure of the Baku-based Monitor Weekly on 8 May 2000. The magazine was reportedly accused of failing to present a financial report for the first quarter of 2000. The Special Rapporteur also referred to the continued ban on Sara Radio/TV since 8 October 1999 on the grounds that it was owned by foreigners. In addition, he requested further information concerning the attack on 27 May 2000 on the offices of the Bu Gun newspaper, when two journalists, Revan Chinghizoglu and Eldeniz Bedelsoy, were beaten by the police and briefly detained.

91. The Special Rapporteur, jointly with the Chairman-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal on 28 August 2000 concerning the arrest of Rauf Arifoglu, editor-in-chief of Yeni Musavat. According to the information received, on 22 August 2000, he was arrested for illegal possession of firearms, participation in an attempted plane hijacking, and terrorism, after a handgun was discovered during a search of his apartment, which was allegedly illegal. The charges against Mr. Arifoglu reportedly resulted from the coverage by Yeni Musavat of an attempted plane hijacking by a member of the opposition Musavat Party in Nakhchivan four days earlier.

Communications received

92. In a letter dated 28 February 2000, the Government of Azerbaijan replied to the concerns the Special Rapporteur raised in his communication of 6 December 1999. The Government explained that the new bill was drafted in compliance with European standards and provided clarifications with regard to a number of provisions of the law. One of the superlative characters of the new law on the mass media was that registration of the mass media had been eliminated. In response to concerns about the issuing of licences by the Ministry of Justice, the Government replied that the new law did not include any provision about licence issuing procedure. It also stated that any control of newspapers by the executive bodies had been completely lifted and there was no provision in the law that could envisage permission being given by the executive bodies to close down media publishing. The Government added that no provision allowed for the control of the media on the basis of information interpreted as "insulting the honour and dignity of the Azerbaijani State and people" and "contradicting national interests". Finally, it said that, although the accreditation of journalists continued to be done through State bodies, the Government hoped to establish accreditation of journalists through the Association of Journalists in the near future.

93. In reply to the communication of the Special Rapporteur dated 2 June 2000, the Government provided, on 21 July 2000, information on the closure of the Monitor Weekly which was said to be the result of a court judgment against a predecessor publication, the Monitor, found to have insulted the Azerbaijani people, its history and national identity. The Government explained that, after the Monitor Weekly refused to comply with a court judgment, Ministry of Taxation officials suspended banking operations and instituted criminal proceedings against Mr. Huseinov, the company director and chief editor. Concerning the closure of the television company Sara, the Government indicated that it had cancelled the registration of the television company on 6 October 1999 after it continued to violate its charter and the Media Act by engaging in Islamic fundamentalist propaganda. Regarding the incidents involving the two Bu Gun journalists, the Government stated that they were taken to Yasamal district police station after the police had requested that they stop taking photographs of a police operation. One of the

photographers, Ravan Chingiz olgy Soltanov (Revan Chinghiyoglu), fell and sustained minor injuries while attempting to flee the scene. The Government explained that they were released following explanation, but that criminal proceedings had subsequently been instituted and an investigation opened.

94. In a communication dated 15 September 2000, the Government of Azerbaijan informed the Special Rapporteur of the result of the investigation concerning Rauf Arifoglu, which established that he was an accomplice in the highjacking. The Government assured the Special Rapporteur that the rights of Mr. Arifoglu had been guaranteed.

95. In a communication sent on 14 November 2000, the Government of Azerbaijan transmitted comments to the Special Rapporteur with regard to his note verbale of 28 August 2000 concerning the Principles on Freedom of Information Legislation ("The public's right to know") (see E/CN.4/2000/63, annex).

Observations

96. The Special Rapporteur thanks the Government for its replies. Furthermore, he welcomes the release from solitary confinement on 5 October 2000 of Rauf Arifoglu after 45 days of pre-trial detention. He remains concerned, however at the fact that charges against Mr. Arifoglu are still pending and that his rights have been limited, in particular his right to run for office and his right to freedom of movement.

Bahrain

Communication sent

97. On 7 March 2000, the Special Rapporteur sent an urgent appeal jointly with the Chairman-Rapporteur of the Working Group on Arbitrary Detention regarding the detention of Abdul-Wahab Hussain, a prominent Shia leader and religious scholar. According to the information received, Mr. Hussain has been held since 22 January 1996 without charges, in connection with a petition calling for constitutional changes and was awaiting a hearing on 14 March 2000. The urgent appeal also drew attention to the arbitrary detention since January 1996 of Hasan Sultan, Ali Ashur, Hussain Al-Dahi, Hasan Mishama'a and Sayyid Ibrahim Adnan Al-Alwai.

Communication received

98. In a communication dated 7 February 2000, the Government replied to the communication of the Special Rapporteur of 6 July 1999 concerning the case of Abdul Amir Al Jamri (see E/CN.4/2000/63, para. 63). The Government informed the Special Rapporteur that Mr. Al Jamri was convicted on 7 July 1999 on a number of charges and sentenced to a 10-year prison term, a DB 5,000 fine and a DB 5.7 million compensation order. However, the Government explained that, following a public apology and a pledge of future good behaviour, Mr. Al Jamri was pardoned and released on 8 July 1999.

Observations

99. The Special Rapporteur welcomes the pardon and release of Abdul Amir Al Jamri and thanks the Government for its reply. However, the Special Rapporteur regrets that no reply from the Government to the communication dated 7 March 2000 has been received so far.

Bangladesh

Communication received

100. On 7 August 2000, the Special Rapporteur received a response from the Government of Bangladesh to his communication dated 11 November 1999 (see E/CN.4/2000/63, para. 65) concerning alleged attacks on journalists and photographers by the police in October and November 1999. In its reply, the Government explained that the incidents referred to by the Special Rapporteur took place during a police intervention in connection with strikes called by the opposition political parties, in which the journalists were not in any way targets of police action.

Observations

101. The Special Rapporteur thanks the Government for its reply but remains concerned over the use of force by the police during a political demonstration.

Belarus

Communication sent

102. On 20 July 2000, the Special Rapporteur transmitted an urgent appeal to the Government of Belarus regarding the alleged disappearance of Dmitry Zavadsky, Russian Public Television (ORT) cameraman on 7 July 2000. According to the information received, his disappearance was reported after he failed to show up for a meeting at Minsk Airport with Pavel Sheremet, another ORT journalist. It has been alleged that the Belarusian secret service was involved in Mr. Zavadsky's disappearance, owing to his continuing work on a documentary about Belarus. Moreover, it has been reported that the Belarusian opposition was accused by the first deputy chief of the Belarusian Presidential Administration of Mr. Zavadsky's disappearance.

Communication received

103. The Special Rapporteur acknowledges the communication of the Government of Belarus dated 8 August 2000 which indicates that an investigation into Dmitry Zavadsky's disappearance was opened with the notable assistance of the Internal Affairs authorities.

Observations

104. The Special Rapporteur thanks the Government for its reply and welcomes the opening of an investigation into the disappearance of Mr. Zavadsky. However, he remains very concerned about the fate of Mr. Zavadsky.

Bolivia

Communications sent

105. On 14 April 2000, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on torture, the Chairman-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on extrajudicial, summary or arbitrary executions concerning the arrest on 7 and 8 April 2000 of the following individuals: Gabriel Herbas, a member of the Environmental Forum ("Foro del Medio Ambiente"); Walter Antezana, head of the Departmental Labour Centre ("Central Obrera Departamental"); Emilio Sejas, manager of Heavy Transport of Cochabamba ("Transporte Pesado de Cochabamba"); Ascencio Picha, leader of "Tropico de Cochabamba"; Felipe Quispe Huanca, head of the Bolivian Farmers Trade Union Federation ("Federacion Sindical Unica de Trabajadores Campesinos de Bolivia"); Fred Nunez, head of the Rural Teachers Trade Union ("Sindicato de Profesores Rurales"); Angel Claur; Sacarías Pereira; Víctor Cossio; Francisco Partis; Santiago Gareca; Víctor Nina; Enriqueta Imaca; Emilio Rodríguez; Filomeno Rivera; Felipe Flores; Osvaldo Toco; Juan Yapura; and Pedro Soto. Reportedly arrested for participating in demonstrations against the Government, it was reported that most of them were held incommunicado and might be victims of torture and ill-treatment.

106. On 18 April 2000, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on torture and the Special Rapporteur on extrajudicial, summary or arbitrary executions with regard to the arrest between 8 and 10 April 2000 of David Goitia Benito, Franz Guzmán, Noel Guzmán, Wilfredo Plaza, Edwin Huanca and Bartolomé Flores, and the alleged torture to which they were subjected. It was reported that they had been released but that there was still fear for their safety. Moreover, concern was expressed about Gloria Eyzaguirre and Jaime Buitrago, two journalists who received death threats on 13 April 2000 and a bomb threat at work. It was further reported that Oswaldo Rojas and other members of the television network Periodistas Asociados Televisión had received death threats after they filmed and transmitted the shooting of Hugo Daza.

Observations

107. The Special Rapporteur awaits replies from the Government.

Brazil

Communication sent

108. On 2 March 2000, the Special Rapporteur sent an urgent appeal concerning the arrest on 23 February 2000 of Erick Guimaraes, Marco Studard and Valdir Gomez Soares of the newspaper O Povo in Fortaleza (province of Ceara). They were reportedly arrested and assaulted while investigating reports of corruption in the municipal government of Hidrolandia.

Communication received

109. On 10 March 2000, the Government acknowledged receipt of the urgent appeal of 2 March 2000 and informed the Special Rapporteur that the communication had been transmitted to the relevant authorities.

Observations

110. The Special Rapporteur thanks the Government for acknowledging receipt of his communication. He awaits further information on the above-mentioned case.

Burkina Faso

Communications sent

111. On 8 December 1999, the Special Rapporteur sent a joint urgent appeal, together with the Chairman-Rapporteur of the Working Group on Arbitrary Detention, regarding the arrest and detention on 1 December 1999 in Ouagadougou of Paulin Yaméogo, editor of San Finna. He was reportedly interrogated in connection with a picture he published which showed a person who was allegedly victim of military brutality. The Special Rapporteur also drew attention to the reported detention of Halidou Quedraogo, Tolé Sagnon, André Tibiri, Benewende Sankara and Bourteima Sigue, in connection to their participation in the preparation of a commemoration of the anniversary of the murder of the journalist Norbert Zongo.

112. On 17 April 2000, the Special Rapporteur, together with the Chairman-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on torture, transmitted an urgent appeal to the Government concerning the arrest of Halidou Ouédraogo, Tolé Sagnon, Norbert Tiendrébéogo and Bénéwendé Sankara on 13 April 2000, as well as the arrest of Pierre Bidima and Etienne Traoré, along with 33 other people, on 10 April 2000. According to the information received, these individuals were detained in connection with their activity as members of democratic organizations and political parties fighting against impunity and for the respect of fundamental freedoms following the murder of a journalist, Norbert Zongo. It was reported that the six individuals were detained without charges and that they had their heads shaved.

Communication received

113. In its reply of 22 December 1999, the Government informed the Special Rapporteur that Paulin Yaméogo was never arrested but only detained in order to be interrogated and released after 72 hours. Moreover, the Government explained that the other five men were not arrested but only questioned and then released. Both cited incidents were said to be simple cases of police investigation.

Observations

114. The Special Rapporteur thanks the Government for its reply and welcomes reports of the unconditional release on 15 April 2000 of Halidou Ouédraogo, Tolé Sagnon,

Norbert Tiendrébéogo, Bénéwendé Sankara and Pierre Bidima. However, the Special Rapporteur notes that the Government has not sent any official reply to his communication dated 17 April 2000, nor any official confirmation of the release. Moreover, the Special Rapporteur remains concerned about the situation of Etienne Traoré.

China

Communications sent

115. On 6 December 1999, the Special Rapporteur, together with the Chairman-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal regarding the re-internment of Wang Wanxing, a political dissident, at Angank psychiatric facility. It was reported that he had been held at Angank for seven years from 1992 to 1999 in connection with a protest banner he displayed in Tiananmen Square in 1992. His recent re-internment was reportedly linked to his intention to hold a news conference to describe his experiences as a psychiatric patient.

116. On 18 February 2000, the Special Rapporteur transmitted an urgent appeal concerning the arrest of four writers of the underground publication China Culture Revival Bulletin. According to the information received, Xiong Jinren and Chen Wei were arrested on 11 January 2000 in Guiyang, Wang Yiliang was arrested on 30 January 2000, while Hu Jun was detained on 31 January 2000 by the Shangai police. All four individuals were reportedly arrested in connection with their work for the China Culture Revival Bulletin, which promotes human rights.

117. On 13 March 2000, the Special Rapporteur sent an urgent appeal to the Government regarding the conviction of Rebiya Kadeer on 21 February 2000 for "ignoring the law of the country and giving information to separatists outside the borders". According to the information received, she was detained on 11 August 1999 while she was on her way to a meeting with a United States congressional staff delegation to whom she reportedly intended to give information about political prisoners in Xinjiang.

118. Jointly with the Special Rapporteur on torture, the Special Rapporteur sent an urgent appeal on 22 March 2000 concerning Xu Wenli, a writer and human rights defender. According to the information received, Xu Wenli, who is serving the second year of a 13-year sentence for "damaging State security" and for secretly planning to set up a "Chinese democratic party", was officially diagnosed with hepatitis B. It was reported, however, that he was not receiving sufficient medical care and that the conditions of detention were causing a deterioration in his health.

119. On 15 June 2000, the Special Rapporteur sent an urgent appeal regarding Qi Yachen, a freelance journalist and Web dissident, who reportedly was charged with subversion on 30 May 2000 by a court in Hebei province and faced a five-year prison sentence in connection with his writings and articles for Kaifang and VIP Reference. Moreover, it was reported that Huang Qi, editor of a Web site on human rights in China, had been detained since 3 June 2000 in Sichuan province and had been accused of subversion following the publication of articles on his Web site which denounced the Tiananmen Square events.

120. The Special Rapporteur sent an urgent appeal on 25 August 2000 with regard to the arrest of Jiang Shihua, the owner of an Internet café and a computer teacher, on 16 August 2000 in Nanchong (Sichuan province), allegedly in connection with the publication of pro-democracy articles. He was reportedly accused of incitement to subvert the State's authority and faces a 10-year jail sentence. Moreover, it has been reported that, in the context of the creation of a police unit in charge of controlling the Internet by the Ministry of State Security in August 2000, the New Culture Forum Web site was closed and banned on 3 August 2000. It was further alleged that a group of five operators of this Web site had subsequently to go into hiding after its shut-down.

Communications received

121. On 19 January 2000, the Government of China replied to the communication of the Special Rapporteur dated 6 December 1999 regarding the case of Wang Wanxing. The Government informed the Special Rapporteur that he was found to be suffering from paranoia in 1992 by the medical authorities at Angank Hospital. The Government also explained that he was put back in the hospital after a three-month trial out-patient procedure, because specialists determined he was suffering from a recurrence of his ailment. The Government added that, under the Chinese Penal Code, mentally-ill individuals cannot be held criminally responsible for damage caused as a result of their illness but that therapy can be imposed on them by the Government. Moreover, the Government stated that Wang Wanxing was receiving treatment out of regard for his health and that his internment had nothing to do with his exercise of freedom of expression.

122. On 21 November 2000, the Government replied to the communication of the Special Rapporteur dated 22 March 2000. The Government indicated that Xu Wenli is currently serving his sentence at Beijing Yanqing Prison and undergoes regular physical examination. The Government contends that the allegation that his health is worsening because of a lack of medical treatment is at variance with the facts and that a check-up performed in August 2000 indicated that Xu Wenli's condition was back to normal.

123. A reply from the Government to the communication dated 15 June 2000 was received on 11 December 2000 and was in the process of being officially translated at the time of completion of this report.

Observations

124. The Special Rapporteur thanks the Government for the replies received thus far and awaits further responses to his communications dated 3 November 1999, 18 February 2000, 13 March 2000, 15 June 2000 and 25 August 2000. He would also like to reiterate his wish to visit China in the near future, as requested by letter dated 17 June 1999.

Colombia

Communications sent

125. On 4 July 2000 the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions concerning Roberth Cañarte Montealegre, a trade unionist who had been allegedly abducted by members of the paramilitary group Autodefensas Unidas de Colombia. According to the information received, Roberth Cañarte Montealegre was abducted on 29 June 2000 in the south west of the department of Valle del Cauca, after he allegedly received death threats from members of the above-mentioned paramilitary group.

126. On 9 August 2000, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions regarding alleged harassment of and threats against Gerardo González, a member of the Central Unitaria de Trabajadores, of the Sindicato de Pequeños Agricultores de Cundinamarca, and a member of the Consultative Council dependant on the International Labour Organization. It was reported that a document announcing a paramilitary offensive in Bogota, as well as the execution of some people including Mr. González, was published on 5 May 2000. On August 1999, his name had reportedly been included in a list of individuals targeted by the Ejército Rebelde Colombiano.

127. On 22 August 2000, the Special Rapporteur transmitted a communication regarding reported acts of intimidation and violence committed against journalists in Colombia since 1999. In particular, it has been reported that Carlos Augusto Pulgarín Guevara, a journalist for El Tiempo in Montéria, had to flee the country when he received death threats in June 2000 after writing an article about the conflict between Revolutionary Armed Forces of Colombia (FARC), the authorities and paramilitary groups in the region. Moreover, it was brought to the Special Rapporteur's attention that Jineth Bedoya Lima, a journalist for El Espectador, was reportedly abducted near the "La Modelo" prison in Bogotá, and later found beaten up with her hands tied near Villavicencio. In addition, it was reported that her abductors also threatened other journalists.

128. On 30 November 2000, the Special Rapporteur, jointly with the Chairman-Rapporteur of the Working Group on Arbitrary Detention, transmitted an urgent appeal pertaining to the arrest on 14 November 2000 of Luis Gabriel Caldas León, the Executive Director of the Corporation of the Group for Non-violent Action of Desarollo Humano Integral y Vocero Continental de la Red de Objeción de Conciencia Latinoamericana y del Caribe. He was reportedly accused of not having fulfilled his military service duties, charges on which he had already been arrested in 1995.

Communications received

129. In its reply dated 9 August 2000, the Government informed the Special Rapporteur that the abduction of Roberto Cañate Montealegre occurred on 29 June 2000 between La Playa Prison and Galicia Prison close to Zarzal while he was driving a trash van. The Government stated that the alleged abductors could be members of the Autodefensas Unidas de Colombia, who wore military clothes.

130. In its letter dated 26 September 2000, the Government informed the Special Rapporteur that, with regard to the alleged threats and harassment against Gerardo González and his family, it had transmitted the communication to the competent authorities. At that point no information had been received about the adoption of specific actions.

Visit

131. In its communication dated 22 August 2000, the Special Rapporteur requested the Government to extend an invitation to him to carry out an official visit to Colombia in the near future.

Observations

132. The Special Rapporteur thanks the Government for its replies and reiterates his wish to undertake a visit to Colombia in the near future. In this context, he expresses a concern about the current situation in Colombia with regard to the abduction of and death threats to journalists and persons seeking to exercise their right to freedom of opinion and expression, as well as with regard to the murder of 11 journalists in 2000.

Cuba

Communication sent

133. On 17 February 2000, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention concerning Oscar Elyas Biscet González, a physician and the President of the Lawton Foundation for Human Rights, reportedly detained since 3 November 1999 in Havana. He was allegedly accused of "dishonouring national symbols", "public disorder" and "inciting delinquent behaviour" in connection with a press conference held on 28 October 1999 on the occasion of the Ibero-American Summit, during which he criticized human rights violations in Cuba. It was reported that his attorney was denied access to his files for 49 days after his arrest, that he had been detained 26 times in the past within a period of 18 months, and that he had previously been mistreated by the authorities and suffered harassment and intimidation.

Communication received

134. On 6 March 2000, the Government sent a reply concerning Oscar Elyas Biscet González, explaining that he had been detained under provisions of the Penal Code and that further information about this case would be sent at a later time.

135. In its reply dated 4 July 2000, the Government transmitted further information concerning Oscar Elyas Biscet González, explaining that Dr. Biscet González was a violent and aggressive person and that, since 1996, he had conducted himself in a notorious way against the public order. The Government also said that, during Dr. Biscet González's trial, due process had been respected, that the defendant was allowed to choose his own lawyer and that his detention was not arbitrary. The Government informed the Special Rapporteur that Dr. Biscet González was sentenced for dishonouring national symbols, public disturbance and incitement to offences.

It also stated that, at the trial, information was issued connecting Dr. Biscet González with the Cuban-American National Foundation, which is considered as a terrorist organization, as well as information suggesting that the Lawton Human Rights Foundation did not exist legally. The Government denied that he had been the victim of any physical or moral ill-treatment.

136. In a communication dated 3 October 2000, the Government transmitted comments to the Special Rapporteur with regard to his note verbale of 28 August 2000 regarding the Principles on Freedom of Information Legislation ("The public's right to know", E/CN.4/2000/63, annex).

Observations

137. The Special Rapporteur thanks the Government for its replies. He would also like to reiterate his wish to undertake a visit to Cuba.

Democratic People's Republic of Korea

Visit

138. The Special Rapporteur would like to reiterate his wish, as expressed in letters dated 18 March 1996 and 10 November 1999, to undertake an official visit to the Democratic People's Republic of Korea in the near future.

Democratic Republic of the Congo

Communications sent

139. Jointly with the Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo, the Special Rapporteur sent an urgent appeal on 24 March 2000 with regard to the arrest of Donatien Nyembo Kimuni, a journalist for La Tribune, on 13 March 2000 in Lubumbashi/Kamalondo by agents of the National Information Agency. It was reported that he had been detained in connection with the publication of an article regarding alleged abuses of power by Georges Manzila Nfundi, the director of the Agence Nationale de Renseignements (ANR)/Katanga.

140. On 10 May 2000, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo, the Special Rapporteur on torture and the Special Rapporteur on the independence of judges and lawyers concerning the arrest and the charges brought against Freddy Loseke Lisunbu La Yayenga, editor of La Libre Afrique. He was reportedly charged on 31 December 1999 in connection with articles published regarding an alleged conspiracy within the Congolese army against President Kabila. It was reported that Freddy Loseke, who has allegedly been detained since 25 February 2000 at the Penitentiary and Reeducation Centre in Kinshasa, faced a 10-year prison sentence. Concerns were expressed for his health in the light of reported mistreatment at the detention centre, as well as of his hunger strike.

141. On 29 June 2000, together with the Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo, the Special Rapporteur transmitted an urgent appeal to

the Government regarding the arrest of Richard Nsamba Olangi, editor of Le Messager Africain, and Emile-Aimé Kakese Vinalu, journalist and editor of Le Carrousel. According to the information received, Mr. Olangi was arrested on 14 June 2000 and brought to the Penitentiary and Reeducation Centre in Kinshasa on charges of defamation against Charles Otoko. Moreover, it was reported that Mr. Vinalu was arrested on 24 June 2000 by members of the police special services and sent to the National Information Agency (ANR/Fleuve) in connection with two articles published about the Congolese opposition.

142. On 17 October 2000, the Special Rapporteur, jointly with the Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo, sent an urgent appeal to the Government regarding a ministerial order dated 14 September 2000 prohibiting the broadcasting of news programmes and certain cultural and evangelization programmes by nine private broadcasting and television stations, namely Radio Elikya, Radio Malebo Broadcast Channel, Radio RTKM, Radio Sentinelle, Radio Kintuadi, Antenne A télévision, Channel Kin 1 and Kin 2, as well as Télévision TKM. According to the information received, only Radio Raga in Kinshasa still had permission to broadcast limited news bulletins.

Observations

143. The Special Rapporteur welcomes the release on 4 January 2001 of Freddy Loseke Lisumbu, Emile-Aimé Kakese Vinalu and Jean-Pierre Ekanga Mukuna. However, he remains concerned at the fact that these three journalists were tried and sentenced for their work by a special military tribunal. The Special Rapporteur also regrets that no reply from the Government has been received so far.

Equatorial Guinea

Communication sent

144. On 24 August 2000, the Special Rapporteur transmitted a communication requesting further information regarding the arrest of Mariano Oyono Ndong on 25 May 1999 and of Carmelo Biko Ngua three days later in Okas Obe, on accusations by a member of the ruling Partido Democrático de Guinea Ecuatorial of holding an illegal political meeting. They were reportedly held in incommunicado detention and had been physically ill-treated. It was also reported that Antonio Engonga Bibang was arrested a week later in Añisok in connection with a letter he had sent to Mariano Oyono Ndong, which was interpreted by the authorities as a reference to a plot to overthrow the Government. It was said that these three individuals were arrested because of their political affiliation with the Fuerza Demócrata Republicana. Moreover, following a trial in December 1999, Mariano Oyono Ndong was reportedly sentenced to three years' imprisonment for possession of an Amnesty International document, while Antonio Engonga Bibang and Carmelo Biko Ngua were respectively sentenced to three years and six months in prison on charges of insulting the Government and the armed forces. In addition, the Special Rapporteur raised the case of Juan Obiang Latte and Teodoro Abeso Nguema who were detained in November 1999 for possessing a copy of a newspaper article and charged with "insults and calumny against the State". They were reportedly provisionally released in January 2000. It was further reported that Pedro Nolasko was dismissed as a journalist working for Radio-Television of Equatorial Guinea in 1992, that he

had been receiving threats since 1997 and had been subjected to intimidation, especially since March 1998 following the publication of articles in La Opinión. Furthermore, it was alleged that the Ministry of Information had ordered the removal of Manuel Nze Nzogo from the presidency of the Press Association (ASOPGE) in April 1999 because he reportedly resisted alleged attempts by the authorities to turn the organization into a showcase for the Government.

Visit

145. In its communication of 24 August 2000, the Special Rapporteur requested that the Government extend an invitation to him to carry out an official visit to Equatorial Guinea in the near future.

Observations

146. The Special Rapporteur awaits a reply from the Government and reiterates his wish to undertake a visit to the country.

Egypt

Communications sent

147. On 22 February 2000, the Special Rapporteur sent an urgent appeal concerning Hafez Abu Sa'ada, who was charged on 13 February 2000 for having accepted a cheque from a foreign country in 1998 without giving the required notification to the authorities. It was alleged that the charges were connected with the publication of a sensitive report on human rights violations which occurred in Al-Kushh in January 2000.

148. In a communication sent on 23 February 2000, the Special Rapporteur requested information about the cases of Salah Badawi, Essam Hanafi and Magdi Hussein of the Al-Sha'ab newspaper, sentenced on 14 August 1999 to two years in prison and a fine for libelling the Minister of Agriculture and the Deputy Prime Minister of Egypt in a series of articles. They were reportedly released in December 1999 after a ruling that they had not been given a fair trial. The Special Rapporteur also raised the case of Mohammad Al Ghanam, who has repeatedly been threatened since 1997, allegedly in connection with articles he wrote about police corruption and prison conditions, and subjected to harassment. It was further reported that the publication of 14 newspapers was suspended on 19 January 2000 on the basis of a decree by the Prefect of Cairo allegedly targeting newspapers critical of the Government's policies. Finally, the Special Rapporteur expressed concerns about a draft law on publishing, which defined publication criteria in broad and vague terms.

149. On 10 July 2000, the Special Rapporteur sent an urgent appeal regarding the arrest on 30 June 2000 of Dr. Saad El Din Ibrahim, a professor at the American University in Cairo and Director of the Ibn Khaldoun for Developmental Studies, and the ensuing security raid on his house and the Ibn Khaldoun Centre where he works. It was reported that documents and computers were confiscated, and that two of the centre's staff, Nadia Abdel Nour and Ossama Hamad, were also arrested. According to the information received, the three of them faced charges of forgery relating to the forthcoming parliamentary elections.

Communication received

150. On 21 August 2000, the Government replied to the communication dated 23 February 2000, informing the Special Rapporteur that the sentence of two years in prison and a fine against Magdi Ahmed Hussein and Salah Badeiwi, the sentence of one year in prison and a fine against Essam Hanafi, as well as the fine imposed on Adel Hussein, had been reconfirmed on appeal and enforced on 1 April 2000. The Government explained that the accused had lodged another appeal with the Court of Cassation and that the judgement was to come under review on 5 September 2000. It also explained that the penalties imposed on these citizens had nothing to do with their profession or with denial of freedom of opinion and expression, but were penalties to which any citizen, regardless of his profession, is liable for offences of libel. In addition, the Government stated that publication of the 14 newspapers mentioned in the communication was suspended because they had been published illegally, without a licence from the Higher Press Council. Moreover, the Government recalled that the press was regarded as a fourth State authority and formed the subject of a special chapter of the Constitution of 1980.

151. In a communication of 14 December 2000, the Government replied to the concerns raised in the allegation transmitted on 23 February 2000, explaining that the appeal presented by the accused journalists to the Court of Appeal had been rejected on 29 September 2000 after due process of law.

Observations

152. The Special Rapporteur thanks the Government of Egypt for the replies received. Following a request to visit the country pending since 18 March 1996 and reiterated by the Special Rapporteur on 26 June 2000, an official invitation from the Government was extended to him on 3 July 2000. He hopes to undertake this visit in 2001.

Guatemala

Communication sent

153. On 17 July 2000, together with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur sent an urgent appeal regarding information received about threats formulated against Ileana Alamilla, director of the information agency CERIGUA and other journalists of the same agency. It was reported that on 23 June and on 10 July 2000, the agency received phone calls proffering death threats against the director and the journalists of CERIGUA.

Communication received

154. In its communication dated 15 August 2000, the Government provided information on the measures taken by the authorities, and in particular by the Presidential Commission for Human Rights (COPREDEH), to investigate the threats and to offer protection to the staff of CERIGUA, notably police surveillance in the vicinity of CERIGUA's headquarters, and to guarantee the life and physical integrity of Ileana Alamilla.

Observations

155. The Special Rapporteur thanks the Government of Guatemala for its reply.

India

Visit

156. In a joint communication with the Special Rapporteur on extrajudicial, summary or arbitrary executions dated 6 October 2000, the Special Rapporteur requested an invitation from the Government to carry out an official visit to India, in the context of a joint mission to both India and Pakistan, in the near future.

Indonesia

Communications sent

157. The Special Rapporteur, jointly with the Chairman-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on torture, sent an urgent appeal on 6 January 2000 concerning the detention of Syaifuddin Gani and Nazaruddin Ibrahim, two human rights lawyers, in the province of Aceh. According to the information received, they were arrested on 4 January 2000 by Indonesian police in the town of Sigli and were held at Sigli Police Resort. They were reportedly arrested in the context of a vast police operation against presumed members of the separatist group Gerakan Aceh Merdeka (GAM). Fears were expressed for their safety.

158. On 10 October 2000, the Special Rapporteur transmitted a joint urgent appeal together with the Special Rapporteur on torture and the Special Rapporteur on extrajudicial, summary or arbitrary executions regarding the incommunicado detention of 15 people reportedly arrested on 6 October 2000 during a demonstration supporting Papuan independence. Furthermore, it was reported that Yorenius Wenda and Alex Meage were taken from their homes by members of the Indonesian National Army a few days prior to the demonstration. Fears were expressed that they might be at risk of torture and summary, arbitrary or extrajudicial execution.

159. The Special Rapporteur, jointly with the Special Rapporteur on torture, sent an urgent appeal on 7 December 2000 concerning the detention since 20 November 2000 of Muhammad Nazar, a leading activist of the Aceh Referendum Information Centre (SIRA), at the Aceh Police Headquarters (Polda Aceh). It was reported that he was officially charged in connection with his involvement in a boycott of the celebration of Indonesian Independence Day on 17 August 2000. It was, however, believed that he was arrested for his participation in the pro-independence rally in Banda Aceh on 10 and 11 November 2000. Fears were expressed that he might still be at risk of torture after he was allegedly tortured and ill-treated while in police custody.

160. On 12 December 2000, together with the Chairman-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur sent an urgent appeal with regard to the arrest on 2 December 2000 by Indonesian police in Jayapura (Irian Jaya) of Oswald Iten, a Swiss

journalist working for Neue Zürcher Zeitung. It was reported that he was accused of carrying out journalistic activities with only a tourist visa, that he was detained in Jayapura prison in extremely difficult conditions and that he was facing up to five years' imprisonment.

Communication received

161. On 14 February 2000, the Government of Indonesia provided information on the detention and arrest of Syaifuddin Gani and Nazaruddin Ibrahim, indicating that the two men's right to physical and mental integrity and to be free from arbitrary detention had been respected. The Government further explained that the two men had been questioned at the Pidie Police Resort in connection with documents relating to the activities and the organizational structures of GAM found in their car. They were released the next day because the police did not have sufficient evidence and they were reportedly allowed to be accompanied by their lawyers.

Observations

162. The Special Rapporteur welcomes the release on 13 December 2000 of Oswald Iten from a prison in Jayapura after 12 days in detention. Furthermore, he thanks the Government for its reply but awaits further responses to his communications. The Special Rapporteur would also like to reiterate his wish, as expressed in his communications dated 18 March 1996 and 9 May 2000, to undertake an official visit to Indonesia in the near future.

Iran (Islamic Republic of)

Communications sent

163. On 26 April 2000, together with the Special Representative on the situation of human rights in the Islamic Republic of Iran, the Special Rapporteur transmitted an urgent appeal regarding the indefinite closure of 14 newspapers and magazines announced on 23 and 24 April 2000. The 14 publications, namely Asr-e-Azadegan, Fat'h, Aftab-e-Emrooz, Arya, Gozaresh-e-Ruz, Bamdad-e-No, Payam-e-Azadi, Azad, Payam-e-Hajar, Aban, Arzesh, Iran-e Farda, Sobh-e Emrooz and Akhbar Egtesad, were reportedly closed for continuing to publish articles against "the bases of the luminous ordinances of Islam and the religious sanctities of the noble people of Iran and the pillars of the sacred regime of the Islamic Republic". In addition, it was reported that Latif Safari, a journalist with the banned daily Neshat, was imprisoned on 23 April 2000 following his conviction on charges of defamation, inciting unrest and "insulting the sanctity and tenets of Islam", in connection with articles he published in Neshat. Moreover, Akbar Ganji, a journalist with Sobh-e Emrooz, was reportedly arrested on 22 April 2000 in connection with complaints filed against him by the Government concerning articles he had published in Iranian newspapers.

164. The Special Rapporteur, jointly with the Special Representative on the situation of human rights in the Islamic Republic of Iran, the Chairman-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on violence against women and the Special Rapporteur on torture, sent an urgent appeal on 11 May 2000 concerning the detention since 29 April 2000 of two women's rights activists, Mehrangiz Kar and Shahla Lahiji, as well as that of Ali Afshari, a representative of Daftar-e Tahkim-e Vahdat, reportedly arrested

on 30 April 2000. It was reported that the three individuals were accused of "acting against national security" in connection with their participation in a conference in Berlin organized by the Heinrich Boell Institute in April 2000 at which political and social reforms in Iran were debated. It was believed that they were held in incommunicado detention and that they were at risk of torture or other forms of ill-treatment.

165. On 30 June 2000, the Special Rapporteur transmitted a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on torture regarding the arrest on 26 June 2000 of Ezzatollah Sahabi, a journalist and managing editor of Iran-e Farda, allegedly in connection with his participation in the conference in Berlin in April 2000. It was reported that his home was searched on 20 June 2000 and that he was held without charges and in incommunicado detention. In addition, it was reported that Khalil Rostamkhani was also arrested on 8 May 2000 in connection with his work as a translator at the conference in Berlin in April 2000. It was alleged that he was also held in incommunicado detention without charges and that he had been denied the right to legal representation. Fears were expressed that both individuals might be at risk of torture.

166. Jointly with the Special Representative on the situation of human rights in the Islamic Republic of Iran, the Special Rapporteur transmitted an urgent appeal to the Government on 11 August 2000 with regard to the arrest on 5 August 2000 of Hasan Yousefi Eshkevari, Director of the Ali Shariati Research Centre and a contributor to the banned newspaper Iran-e Farda, on grounds of defamation and "acting against national security" in connection with a speech he gave at the conference in Berlin in April 2000. It was further reported that Ahmad Zeidabadi, a journalist with Hamshahri, was arrested on 7 August 2000 in connection with articles he wrote for now-banned newspapers, and that Massoud Behnoud was arrested on 9 August 2000 on the basis of more than 50 complaints about his writings for several banned newspapers. In addition, it was alleged that more than 20 publications have been banned since March 2000, in particular the daily Bahar, banned on 8 August 2000, and the weekly Cheshmeh Ardebil, suspended for four months on 7 August 2000 for "disturbing public opinion" and "insulting Islamic sanctities".

167. On 5 September 2000, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention concerning Baghi Emadeddin, a journalist, who was sentenced to five and a half years' imprisonment on 29 May 2000 by the Revolutionary Press Court and sent to Evin Prison in Tehran. According to the information received, he was charged with publishing articles questioning the validity of Islamic Law and disseminating unsubstantiated new stories, allegedly in connection with a series of articles he published in Neshat implicating Iranian officials in the murders of a number of intellectuals and dissidents in recent years.

168. Together with the Special Representative on the situation of human rights in the Islamic Republic of Iran, the Chairman-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on torture, the Special Rapporteur sent an urgent appeal on 16 November 2000 concerning the situation of Akbar Ganji, a freelance journalist arrested on 22 April 2000, allegedly in connection with his participation in the conference in Berlin in April 2000. Reportedly accused of threatening national security, disseminating propaganda against the Islamic system and insulting religious edicts and figures, he appeared before the

Revolutionary Court in Tehran on 9 November 2000 when he told how he had been beaten and tortured in Evin prison. He reportedly explained that he had been held in solitary confinement for 80 days, without access to his family nor his lawyer.

169. On 16 November 2000, the Special Rapporteur transmitted a joint urgent appeal with the Special Representative on the situation of human rights in the Islamic Republic of Iran and the Special Rapporteur on extrajudicial, summary or arbitrary executions concerning the conviction of Hasan Yousefi Eshkevari on charges of defamation, of insulting the founder of the Islamic Republic and of apostasy in connection with his participation in the conference in Berlin in April 2000. It was alleged that he could be facing the death sentence, that he was held in solitary confinement and that he was denied both medical check-ups and access to legal counsel.

Communication received

170. On 24 March 2000, the Government of the Islamic Republic of Iran replied to the communication of the Special Rapporteur dated 13 July 1999 (see E/CN.4/2000/63, para. 115) concerning incidents during student demonstrations on 8 July 1999 at Tehran University. The Government informed the Special Rapporteur that the individuals who were arrested in the context of the demonstrations were members of illegal groups and not students making legitimate appeals. Moreover, the Government explained that 30 of the 50 individuals arrested had been released on bail. The Government stated that it was studying the issue and that the judiciary was independently following up on it.

Observations

171. The Special Rapporteur thanks the Government of the Islamic Republic of Iran for having sent him information on recent developments regarding the situation of freedom of opinion and expression in the Islamic Republic, as well as for its reply concerning the case of student demonstrators. He also welcomes the release on bail of Massoud Behnoud on 16 December 2000 and hopes to be kept informed about his situation. However, he would like to draw attention to the arrest and detention of many individuals who participated in the conference in Berlin in April 2000 which discussed political and social reforms in Iran. The Special Rapporteur awaits further replies.

Kazakhstan

Communication sent

172. On 7 December 1999, the Special Rapporteur sent a communication concerning the alleged use of direct and indirect censorship by the Government to hamper the freedom of independent media on the eve of the presidential elections. The Special Rapporteur requested information about cases of indictment under the Law on National Security and the Law on "Honour and Dignity", in particular: the case of the publishing company TOO Big-L which was closed on 25 October 1998 in connection with an article which allegedly incited to national enmity; the case of Madel Ismailov convicted on 7 April 1998 of insulting the honour and dignity of the President during a peaceful opposition demonstration in Almaty in November 1997; the case of Petr Svoik charged with incitement to national hatred, slander and

offending an official in connection with an article published in March 1998 entitled "Kazakhstan and Russia: will they enter into a new union?". Moreover, it was reported that on 27 October 1998, a six-month suspension of publication of Soroko was ordered by the Karaganda Regional Procurator's Office, allegedly because of violations of the Law on the Media, a suspension which was later extended two days before the presidential elections. In addition, on 10 September 1998, a court ruling in Almaty awarded sizeable compensation to the head of the government-funded Kazakhstan television channel in his libel suit against the newspaper Dat, which reportedly frequently published articles on the Government. The Special Rapporteur also requested information about the alleged confiscation by the police of editions of Dat on 4 November 1999 on charges that they had been illegally transported across the border and about the damage caused to the editorial offices of the Almaty-based XXI Vek by a firebomb in September 1998.

Observations

173. The Special Rapporteur awaits a reply from the Government.

Kenya

Communication sent

174. On 22 February 2000, the Special Rapporteur sent an urgent appeal concerning the arrest and detention of Johann Wandetto, sentenced on 15 February 2000 to 18 months in prison in connection with an article published on 6 March 1999 in The People. The article reportedly discussed the alleged disarmament of the elite presidential guards by a militia in the West Pokot region.

Observations

175. The Special Rapporteur regrets that no reply has yet been received.

Kuwait

Communication sent

176. On 26 January 2000, the Special Rapporteur transmitted an urgent appeal to the Government regarding the sentencing on 22 January 2000 of Dr. Alya Shu'ayb, Laila Al-'Othman and Yahia Al-Rubay'an to two months in jail and a fine for writings that were said to "cause harm to religion and to morality" since they mentioned lesbian relationships.

Communication received

177. In its reply dated 10 April 2000, the Government informed the Special Rapporteur that the prison sentences of Dr. Alya Shu'ayb, Laila Al-'Othman and Yahia Al-Rubay'an were annulled on 26 March 2000. Dr. Shu'ayb was sentenced to pay a fine of KD 100 on the charge of distributing and selling a book without a licence, Mr. Al-Rubay'an was sentenced to pay a

fine of KD 100 on charges of failing to notify the Department of Publications in writing before publication of the book, while Ms. Al-'Othman and Mr. Al-Rubay'an were both sentenced to pay KD 1,000 for publishing Ms. Al-'Othman's book.

Observations

178. The Special Rapporteur thanks the Government of Kuwait for its reply.

Kyrgyzstan

Communication sent

179. In a communication sent on 28 September 2000, the Special Rapporteur requested information concerning acts of intimidation and harassment against journalists of the independent daily Delo No. According to the information received, Viktor Zapolsky, Svetlana Krasilnikova and Vadim Nochevkin were detained and questioned on 16 August 2000, allegedly without access to a lawyer. Moreover, Ms. Krasilnikova was admitted to the National hospital in Bishnek following the questioning. The three journalists were reportedly interrogated in connection with Mr. Nochevkin's article on the trial of former government minister Feliks Kulov. Furthermore, it was reported that the Web site Politika KG, which had published a letter denouncing the harassment of these journalists, was closed down on 25 August 2000.

Communication received

180. On 13 November 2000, the Government of Kyrgyzstan responded to the letter of the Special Rapporteur dated 28 September 2000, indicating that the materials published in Delo No consisted of comments made on the testimony which was heard in camera. The information in question was about undercover agents of the special services and therefore constituted State secrets. The disclosure of this information was a violation of the law. Since Mr. Nochevkin, Mr. Zapolsky and Ms. Krasilnikova were being questioned as witnesses in a criminal case, the questioning was conducted without the presence of a lawyer, in accordance with the Code of Criminal Procedure. The Government explained that the questioning took place in one of the offices where investigating officers normally work and that, during the questioning, no coercion or other forms of pressure were applied. On 18 December 2000, the Special Rapporteur received further information concerning the case of the Delo No. The Government informed him that the Investigations Department of the Ministry of National Security had initiated criminal proceedings for breach of State secrecy in relation to the article published in Delo No and that the Investigations Department had questioned Mr. Zapolsky, Ms. Krasilnikova and Mr. Nochevkin on 16 August 2000 in compliance with the requirements of the law on criminal procedure. The Government explained that the interrogations were shorter than indicated in the Special Rapporteur's communication, that the questions put to the three journalists were not of the nature of threats or intimidation and that no violations of s. 61(1) of the Kyrgyz Code of Criminal Procedure occurred.

Observations

181. The Special Rapporteur thanks the Government for its reply.

Lao People's Democratic Republic

Communication sent

182. On 17 December 1999, an urgent appeal was sent by the Special Rapporteur regarding the arrest on 9 November 1999 of Thongpaseuth Keuakoun, Khamphouvieng Sisa-Ath, Seng-Aloun Phengphanh, Bouavanh Chanhmanivong, Keochay and several other colleagues, teachers and students. Mr. Keuakoun and his colleagues were allegedly arrested for planning a march to ask for freedom, democracy and human rights. According to the information received, the organizers of the march were detained first at a detention centre and then in a labour camp in Vientiane.

Communication received

183. The Government informed the Special Rapporteur, in a communication dated 31 May 2000, that the information concerning the arrest of students on 9 November 1999 was false. The Government explained that the Lao authorities concerned had arrested on that day a group of about 10 people who were said to have violated the laws of the Lao People's Democratic Republic because they created trouble and disorder by preparing to distribute leaflets against the Government. Furthermore, the Government stated, the arrests were made under legal procedures and those people were awaiting trial in compliance with the country's legal procedures.

Observations

184. The Special Rapporteur thanks the Government for its reply.

Latvia

Communication received

185. In a communication sent on 31 October 2000, the Government of Latvia transmitted comments to the Special Rapporteur with regard to his note verbale of 28 August 2000 regarding the Principles on Freedom of Information Legislation ("The public's right to know") (see E/CN.4/2000/63, annex).

Lebanon

Communication sent

186. On 9 May 2000, the Special Rapporteur, together with the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal concerning the situation of lawyer Muhamad Mugraby. It had been reported that a statement by the Prosecutor General published in local newspapers indicated that Mr. Mugraby, an active human rights defender, might be prosecuted for defamation for statements he made concerning cases of corruption involving members of the judiciary. Further allegations had been received suggesting that he might be subject to precautionary arrest.

Communication received

187. In its reply dated 11 July 2000, the Government informed the Special Rapporteur that legal charges against lawyers in Lebanon had to be approved by the Ordre des Avocats and to be based on acts committed in the context of legal practice. On 19 May 2000, the Ordre des Avocats ruled that the complaints against Muhamad Mugraby were not connected to his legal practice. The Government explained that the charges against Mugraby were pending.

Observations

188. The Special Rapporteur thanks the Government for its reply.

Liberia

Communications sent

189. On 22 March 2000, the Special Rapporteur sent an urgent appeal concerning the illegal closure of the privately owned Star Radio on 14 March 2000. According to the information received, while the articles of incorporation of Star Radio allegedly allowed it to disseminate information without time restrictions, the Information Minister informed the station that it had only been granted a temporary licence allowing it to broadcast during the 1997 elections and there was no reason for it to continue airing "political talk shows, news and interviews". In addition, the Special Rapporteur received information concerning the closing down of Radio Veritas, and the seizing by the police of documents and broadcasting equipment. Journalists and technicians were allegedly manhandled during the intervention.

190. On 22 August 2000, the Special Rapporteur sent an urgent appeal regarding the arrest of Gugulakhe Radebe, David Barrie, Tim Lambon and Sorious Samura in Monrovia on 18 August 2000 by a team of police. It was reported that the four journalists, who work for the London-based Insight News Television and were in Liberia shooting a documentary series, had been arrested for carrying out "acts against the security of the State" and charged with "spying against the Republic of Liberia".

Observations

191. The Special Rapporteur welcomes the release on 25 August 2000 of the four foreign journalists after they gave their apologies to the Liberian nation. He awaits replies from the Government.

Libyan Arab Jamahiriya

Communication sent

192. On 8 March 2000, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on torture concerning Sami Muhammad Sami, 'Abd al-Hafez Muhammad al Naggar, Ashraf Sulayman al-Hamrouni, Imam 'Awad Khabouli, Gamal Mabrouk Abu Sha'ala, 'Adel Salim Kakouka and Iamn Muhammad 'Attiya, who were allegedly forcibly returned to the

Libyan Arab Jamahiriya from Jordan on 4 January 2000 under suspicion of being sympathizers of Islamist groups. According to a Jordanian official, they had been found on 7 March distributing leaflets critical of the Libyan authorities. It was believed that they had been arrested upon return.

Observations

193. The Special Rapporteur awaits a reply from the Government.

Malaysia

Communications sent

194. On 17 January 2000, the Special Rapporteur transmitted an urgent appeal to the Government of Malaysia concerning the charges brought against Zulkifli Sulong and Chia Lim Thye, respectively editor and publisher of the bi-weekly Harakah, on 12 January 2000. According to the information received, they were accused of sedition for an article published on 2 August 1999 which accused the media of supporting the authorities in their prosecution of Anwar Ibrahim. It was further reported that Chandra Muzaffar, the author of the article and Deputy President of the Keadilan Party, was also charged with sedition. If convicted, they were said to face the maximum penalty of a M$ 5,000 fine and three years' imprisonment. Moreover, concerns were expressed with regard to threats articulated by the Ministry of Home Affairs to suspend the bi-weekly, as well as the pro-opposition publications Detik, Wasilah, Tamadun, and Eksklusif.

195. Jointly with the Chairman-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on torture, the Special Rapporteur sent an urgent appeal on 19 April 2000 concerning Tian Chua, the Vice-President of the National Justice Party (PKN); Roslan Kassim, PKN Information Chief; Mohd Ezam Mohd Nor, PKN Youth Chief; N. Gopalankrishnan, PKN Supreme Council member; Abdul Malek Hussain, Mohd Hafiz Hashim and 46 other members of the PKN. It was reported that they were arrested in connection with a demonstration on 15 April marking the first anniversary of the jailing of the former Deputy Prime Minister, Anwar Ibrahim. Roslan Kassim was reportedly arrested on 14 April 2000 and ordered to be detained for seven days on suspicion of inciting others to attend an illegal assembly. All the others were reportedly arrested on 15 April 2000 and were held in custody for up to six days. Six of them were allegedly assaulted and were later denied medical treatment. It was said that they had only limited access to their lawyers and that they were not allowed to see their families. It was reported that Tian Chua was suffering from asthma and was on daily medication for food poisoning.

196. On 9 August 2000, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on torture regarding Lokman Noor Adam, N. Gopalakrishnan, Norazimah Mohd. Noor, Zanaib Rahmah and three others known as Monas Suffian, Rahimah and Munawar, who had reportedly been arrested during a demonstration on 4 August 2000. The demonstration was said to be in support of the former Deputy Prime Minister, Anwar Ibrahim, the verdict in whose trial was expected to be handed down, and of about 30 people who were on trial charged with participating in an illegal assembly. It is further reported that in a similar demonstration

on 8 August 2000, Tian Chuan, Abdul Malek Hussein, Monas Suffian, Norsuria b. Ismail, Putra b. Zulkarnain, Sabran b. Hamzah, Mohd. Jasni Zakaria, Nekmat b. Abu and four women were also arrested. It was believed that seven of them had been charged with participating in an illegal assembly. On 4 August 2000, Lokman Noor Adam, youth leader of the PKN, was reportedly beaten by five plain-clothed men at the time of arrest and charged with taking part in an illegal assembly. On 8 August 2000, Tian Chuan was detained at Ibu Pejat Kontijen, where he was separated from the other demonstrators and taken to the Serious Crime Department. He was then reportedly surrounded by a number of police officers, including a superintendent and two chief inspectors, whereupon he was allegedly kicked and pushed to the floor. He was then reportedly taken to a police cell, where other inmates were encouraged by the police to assault him. When Sabran B. Hamzah was arrested at the demonstration on 8 August 2000, he was reportedly punched in the face and kicked in the stomach by four or five uniformed police officers.

Communication received

197. The Government of Malaysia replied on 10 April 2000 concerning the case of Zulkifli Sulong and Chia Lim Thye, explaining that their arrests were carried out in accordance with the law and as a consequence of full investigation of offences by the police.

Observations

198. The Special Rapporteur thanks the Government for its reply and awaits further responses to his communications.

Maldives

Communication sent

199. On 10 January 2000, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on torture concerning the detention of Umar Jamal, Ibrahim Ahmed Maniku and Abdul Rasheed, all candidates in the November 1999 parliamentary elections. It was reported that Umar Jamal was arrested at his house on 29 October 1999 after an argument with a rival candidate and taken to Dhoonidhoo detention centre. The two other candidates had reportedly been detained since early November 1999. Before being transferred to house arrest, they were first reportedly taken to Dhoonidhoo detention centre, where they were allegedly deprived of sleep for several days, being forced to sit on stools in rain and storms and beaten every time they fell asleep.

Observations

200. The Special Rapporteur regrets that no reply from the Government has been received so far.

Mauritania

Communication sent

201. On 30 August 2000, the Special Rapporteur transmitted a communication to the Government regarding the suspension of a number of newspapers under article 11 of the Mauritanian Press Law. The Special Rapporteur drew particular attention to the following cases: the one-month suspension of L'Eveil Hebdo on 9 February 2000 and its seizure on 12 April 2000; the seizure on 23 March 2000 of issues 7 and 9 of Errouya Al Watania; the seizure of Nouakchott-Infos on 17 May 2000, of two editions of La Tribune on 3 July and 23 August 2000, as well as of issue number 21 of Le Carrefour on 24 August 2000.

Observations

202. The Special Rapporteur regrets that no reply from the Government has been received so far.

Mexico

Communications sent

203. On 9 February 2000, the Special Rapporteur sent an urgent appeal together with the Special Rapporteur on extrajudicial, summary or arbitrary executions regarding death threats received by Juan López Villanueva, a lawyer for Area Jurídica del Centro de Derechos Humanos, and Arturo Solis, Director of the Centro de Estudios Fronterizos y Promoción de los Derechos Humanos (CEF-PDH). It was reported that these threats were linked to the accusations they had articulated against alleged drug traffickers who reportedly threatened journalists who denounced the state of violence in Ciudad Miguel Aleman.

204. On 7 July 2000, the Special Rapporteur sent the Government of Mexico an urgent appeal concerning the charges of defamation brought against Arturo Solís, Director of CEF-PDH in Reynosa, by a governmental organization after he reportedly publicly accused officials of the National Migration Institute (INM) in Tamaulipas of illegal traffic of migrants, extortion and foul treatment of them. It was reported that several witnesses who had spoken in his defence had received death threats and that Mr. Solís and his family had been followed by strangers in vehicles without licence plates. Furthermore, staff of the CEF-PDH had reportedly received anonymous death threats on 9 February 2000.

205. On 14 July 2000, the Special Rapporteur, together with the Special Rapporteur on extrajudicial, summary or arbitrary executions, sent an urgent appeal with regard to Freddy Secundino Sanchez, who works for Epoca Magazine. It was reported that on 15 June 2000 he was approached in front of his home by two armed individuals who claimed to be from the "Judicial Police" and ordered him to get into a taxi. He was reportedly detained in the car for two hours and held at gunpoint by one of his kidnappers, who told him "you should already know why we are here". During this time he reportedly received several death threats in connection with articles published by his magazine and he was beaten up.

206. On 4 October 2000, the Special Rapporteur sent an urgent appeal after being informed that, in the context of the forthcoming elections in the State of Tabasco on 15 October 2000, opposition parties had denounced the lack of balanced and impartial coverage of the electoral process by Televisión Tabasqueña S.A. de C.V. - Channel 7 (TVT). It was reported that this television channel had repeatedly refused to sell space for the transmission of television spots featuring Caesar Raul Ojeda Zubieta, Democratic Revolution Party candidate for Governor. Opposition parties further alleged that campaign coverage on channels 7 and 9 was partial and discriminatory. Moreover, it was alleged that Roberto Madrazo Pintado, the then-Governor and candidate for the Institutional Revolutionary Party, was directly responsible for Channel 7 as a result of the Government of the State of Tabasco holding 98 per cent of the share capital of Televisión Tabasqueña S.A. de C.V..

207. On 26 October 2000, the Special Rapporteur together with the Special Rapporteur on extrajudicial, summary or arbitrary executions sent an urgent appeal to the Government regarding death threats received by electronic mail by Jaime Avilés, a journalist with La Jornada, on 21 October 2000 in Mexico City. It was reported that, on the same day, La Jornada had published an article in which Jaime Avilés connected the Governor of the State of Tabasco, Roberto Madrazo Pintado, with different cases of corruption. It was further alleged that, in May 2000, Jaime Avilés had received another death threat by electronic mail after writing a series of articles on the performance of the Government in the indigenous communities of the State of Chiapas.

Communications received

208. On 13 December 2000, the Government of Mexico replied to the communications dated 6 September 1999, 16 September 1999 and 1 November 1999 concerning death threats against Digna Ochoa Plácido and other members of the Human Rights Centre "Agustín Pro-Juárez" (PRODH) (see E/CN.4/2000/63, para.145). The Government stated that the Mexican authorities gave special attention to the rights of human rights defenders and that in the case of threats, the authorities would immediately take the necessary steps to guarantee victims' safety, in accordance with article 40 of the Law on the National Human Rights Commission. The Government expressed its concern over the reported death threats against Digna Ochoa Plácido and transmitted information on her case received from the Comisión Nacional de derechos humanos (CNDH) and from the Comisión de Derechos Humanos del Distrito Federal. On 3 September, the CNDH had registered the complaint through the Coordinación del programa de atención de agravios a periodistas y defensores civiles de derechos humanos and, the same day, had requested that the necessary steps be taken to guarantee Digna Ochoa Plácido's safety. The declaration and testimony of Digna Ochoa Plácido were reportedly taken and the investigation initiated. Despite an earlier refusal, Digna Ochoa Plácido finally accepted personal protection and the head office of PRODH received 24-hour protection from the judiciary police.

209. On 18 May 2000, the Government transmitted information concerning Luis Mario García Rodríguez, on behalf of whom the Special Rapporteur had sent a communication on 6 October 1999 (see E/CN.4/2000/63, para. 146). The Government explained that an investigation had been initiated on 13 February 1998 by the Office of the Government Procurator of the Federal District and that it was impossible to provide more information as the procedures were confidential.

210. In a reply dated 21 May 2000, the Government informed the Special Rapporteur that an investigation had been opened in relation to the threats against members of the Centro de Derechos Humanos "Agustín Pro-Juárez" and Digna Ochoa y Plácido in particular, and that preventive measures necessary to protect the life and physical integrity of the victims had been immediately implemented. The Government explained that, on 18 November 1999, Digna Ochoa y Plácido had accepted an offer of personal protection and, from 4 November 1999, received 24-hour protection from members of the judiciary police on the premises of the Centro de Derechos Humanos "Miguel Agustín Pro Juárez".

211. In reply to his communication of 9 February 2000, the Government informed the Special Rapporteur on 26 May 2000 that, concerning the threats received by Arturo Solis, the National Human Rights Commission had begun an investigation into complaints of threats, intimidation and censorship against Mr. Solis. Moreover, his request to have the investigation carried out under the Programme for the Protection of Journalists and Human Rights Defenders had been brought to the attention of the Office of the Attorney-General in order for it to make the necessary arrangements. In the case of Juan López Villanueva, the State had informed the Mexican League for the Protection of Human Rights on 14 January 2000 that those concerned in the case should apply to the representative of the Public Prosecutor's Office in order to lodge a complaint for appropriate legal action. In a communication dated 14 June 2000, the Government provided additional information concerning Arturo Solis, explaining that he had declined the suggestion of the Attorney-General to make a formal complaint to the Procurator's Office since he believed that the circumstances threatening his personal safety no longer existed.

212. In a communication dated 14 September 2000, the Government provided further information about Arturo Solis in reply to the Special Rapporteur's communication of 7 July 2000, explaining that protective measures had been put in place by the Office of the Attorney-General in the State of Tamaulipas on 11 July 2000 to guarantee the safety of Mr. Solis.

213. In a reply dated 14 September 2000, the Government informed the Special Rapporteur, with regard to the situation of Freddy Secundino Sánchez, that the case had been transmitted to the relevant competent authorities and that a preliminary inquiry had been opened by the Human Rights Commission of the Federal District, which had on repeated occasions requested effective and timely protection for Freddy Secundino Sánchez and his family.

214. On 30 November 2000, the Government replied to the Special Rapporteur's communication of 26 October 2000, informing him that the Secretariat of the Governor had offered Jaime Avilés an investigation and the necessary protection. The Directorate of Juridical Affairs of the Secretariat of the Government of the State of Tabasco informed the Special Rapporteur that it firmly denied that the Governor of the State of Tabasco, on his own or through any intermediary, had generated, promoted, favoured or carried out any action with the intention of harming people in any way that contravened, inter alia, constitutional principles or the rights to freedom of expression enshrined in the Constitution.

215. In a communication sent on 10 November 2000, the Government of Mexico transmitted comments to the Special Rapporteur in response to his note verbale of 28 August 2000 regarding the Principles on Freedom of Information Legislation ("The public's right to know") (E/CN.4/2000/63, annex).

Observations

216. The Special Rapporteur thanks the Government for its replies.

Morocco

Communication sent

217. On 5 December 2000, the Special Rapporteur transmitted an urgent appeal concerning the decision of the Government to close the weekly newspapers Le Journal, Assahifa and Demain on the basis of article 77 of the Press Code. It was reported that the three newspapers were accused of threatening the stability of the State in connection with the publication of a letter from Mohamed Basri, a political opponent, which allegedly implicated the current Prime Minister in the attempted coup d'état of 1972 against King Hassan II. In addition, the Special Rapporteur expressed his concerns about the brief closure during 2000 of seven newspapers: Le Reporter, Le Quotidien du Maroc/Economie, Al Moustaquil, Jeune Afrique-L'Intelligent, Le Journal, Assahifa and Le Figaro.

Observations

218. The Special Rapporteur welcomes the resumption of publication of Le Journal and Assahifa on 12 January 2001, but awaits a reply from the Government.

Myanmar

Communications sent

219. Together with the Chairman-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur sent an urgent appeal on 11 April 2000 concerning U Than Chaun, the 70-year-old owner of a coffee shop in Shwe-Goo township, Kachin State. Arrested on 18 December 1999 because he reportedly had tuned in to a Voice of America programme, he was allegedly charged on 19 January 2000 under article 505 (B) of the Criminal Code and sentenced to two years' imprisonment. It was reported that he had no access to legal representation and that he was suffering from medical problems which were becoming life-threatening in detention.

220. On 4 August 2000, the Special Rapporteur transmitted a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention regarding the arrest and detention, on 24 June 2000, by local government officials in Magwe Division, of Thaung Sein, Soe, Par Lay and Pu, all members of the National League for Democracy (NLD). They had reportedly been trying to contact the International Committee of the Red Cross on behalf of U Wine San, a NLD local leader, who was said to be serving a seven-year prison sentence with

hard labour. On 26 June 2000, they were charged with attempting to destabilize the Government and sentenced to two years' imprisonment with hard labour. It was alleged that the charges against them were purely politically motivated.

Observations

221. The Special Rapporteur regrets that no reply has been received from the Government of Myanmar so far.

Nepal

Communication sent

222. On 7 March 2000, the Special Rapporteur sent an urgent appeal regarding Krishna Sen, the editor of the Nepal language weekly Janadesh. According to the information received, he was first arrested in Kathmandu on 19 April 1999 in connection with the publication of an interview with Baburam Bhattarai, considered a leader of the Maoist insurgency in Nepal. He was reportedly kept in detention despite a Supreme Court order for his release on 10 August 1999. According to the authorities, he was released on 9 February 2000 and arrested again on 13 February 2000. However, it was believed that he was instead transferred to Siraha Jail and was allegedly charged with carrying illegal weapons.

Communication received

223. In its reply dated 12 April 2000, the Government informed the Special Rapporteur that Krishna Sen was not under police detention.

Observations

224. The Special Rapporteur thanks the Government for its reply.

Pakistan

Communications sent

225. On 6 December 1999, the Special Rapporteur transmitted an urgent appeal to the Government regarding the arrest and detention of Zahoor Ansari and Ayub Khoso, respectively publisher and columnist of the newspaper Alakh. It was reported that they were sentenced to 10 years in prison for allegedly making derogatory remarks against the prophets and hurting religious feelings in an article published on 5 September 1999. They were reportedly given additional seven-year prison terms under the 1997 Anti-Terrorism Act and fined PRs 17,000 each, or two further years in jail in the case of non-payment of the fine.

226. On 2 March 2000, the Special Rapporteur transmitted an urgent appeal to the Government regarding Gohar Ali, a correspondent for Surkhab, and Malik Rab Nawaz, a reporter with Maidan. According to the information received, the two journalists were arrested

on 29 February 2000 in Batkhela, while reporting on alleged official involvement in timber smuggling, and charged with fraud. They were reportedly not eligible for bail and were kept in police custody.

227. The Special Rapporteur sent an urgent appeal on 28 June 2000 with regard to the arrest of Ahmed Jan Siddiqui, a correspondent of the Ausaf in Sadda newspaper, and the issuing of an arrest warrant against Iqbal Hussain, a correspondent of the Rawalpindi-based Jang. It was reported that Ahmed Jan Siddiqui was arrested on 7 June 2000 by policemen in Sadda for having published articles denouncing corruption within the local civil administration. Moreover, it was reported that Iqbal Hussain went into hiding after an arrest warrant was issued against him on 23 May 2000. His brother and father were reportedly arrested on 6 June 2000 and released on 10 June, with threats of going back to jail if Iqbal Hussain did not give himself up to the police within two weeks. It was alleged that Iqbal Hussain had written reports on the arrest of a group of people during a demonstration on behalf of a religious scholar who was in conflict with the authorities.

228. On 10 August 2000, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions with regard to the death threats received by Inayat-ul-Haq Yasini, a journalist at the Pushto-language daily Wahdat in Peshawar. It was reported that he had been receiving threatening telephone calls since he published, on 26 June 2000, a survey based on comments made by Afghan refugees and leaders in camps in north-west Pakistan. He was also said to have been threatened by an anonymous person calling "from the Taliban". It was alleged that he had received an anonymous letter advising him "not to favour the movement of General Al-Maroof Shariati" if he did not want to pay a "high price".

Visit

229. In a joint communication with the Special Rapporteur on extrajudicial, summary or arbitrary executions dated 6 October 2000, the Special Rapporteur requested the Government to extend him an invitation to carry out an official visit to Pakistan in the near future, in the context of a joint mission to both Pakistan and India.

Observations

230. The Special Rapporteur awaits a reply from the Government.

Palestinian Authority

Communications sent

231. On 2 December 1999, the Special Rapporteur, together with the Chairman-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal concerning the arrest and detention of leading Palestinian intellectuals, including Yasser Faek Abu Saifeh, Abdel Sattar Qassem, Abdul Rahim Kittani, Adil Samara, Ahmed Qatamesh, Bassam Shaka'a and Wahi Al Hamdallah. They were reportedly arrested by the Palestinian police on 28 November 1999 following the issuing of a public statement criticizing the Palestinian Authority for corruption and calling for presidential and parliamentary elections.

Shaker Dooden, Afif Sualiman Al-Judah and Adnan Odeh were also allegedly arrested on 29 November 1999 as the authors of the public statement. Ahmed Qatamesh, Adil Samara and Abdel Sattar Qassem had reportedly been transferred to the General Intelligence detention centre, while Yasser Faek Abu Safieh, Afif Sualiman Al-Judah and Adnan Odeh were held at the police criminal department in Nablus. Some of them were reportedly detained without charge and had been denied access to their lawyers.

232. On 22 February 2000, the Special Rapporteur sent an urgent appeal with regard to Khaled Amayreh, editor and chief of the newspaper The Hebron Times, who had reportedly been summoned on 11 February 2000 by the Palestinian Authority General Intelligence concerning an article in which he allegedly criticized President Arafat on the issue of refugees. He was also reportedly summoned by the Israeli District Coordination Office on 15 February 2000 in connection with the same article. On 16 February 2000, he was allegedly asked to publish material favourable to President Arafat if he did not want to see the publication close.

233. Jointly with the Chairman-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on torture, the Special Rapporteur transmitted an urgent appeal on 8 June 2000 concerning the arrest on 21 May 2000 of Mohammad Muqbel, Director General in the Ministry of Youth and Sports. It was reported that he had been arrested and detained without an arrest warrant or due legal procedure and that he was held in solitary confinement in Ramallah Central Prison. It was believed that his detention was linked to his active participation in a demonstration for Palestinian prisoners the same day. Fears were expressed concerning his safety and health, given his respiratory problems and the incommunicado nature of his detention.

234. On 23 June 2000, together with the Chairman-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur sent an urgent appeal regarding Maher Abdul Majeed Al Alami, a Palestinian journalist, reportedly detained since 6 June 2000. Summoned for an interview by the Palestinian General Intelligence at the Ramallah and Al Bireh Governor's Headquarters, he was taken to Ramallah Central Prison without being interviewed or informed of any charges against him. Although the arrest order stated that he had "broken the law", the reason for his arrest was believed to be his taking part in a television broadcast on 31 May 2000 during which he participated in a discussion on the Palestinian National Authority's policy of shutting down local television and radio stations, as well as his opinions published in the Al Istiqlal newspaper.

235. On 30 June 2000, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on torture with regard to the arrest of Abed al-Fattah Ghanem, one of the President's advisers on refugee affairs and a political leader of the Palestinian Liberation Front. It was reported that he was arrested on 21 June 2000 by the Palestinian police in Ramallah, allegedly in connection with statements he made to Jordanian and Arab Gulf newspapers regarding a just and final settlement of the refugee question and the alleged administrative corruption surrounding the issue. He was believed to be held in incommunicado detention and to be denied access to his lawyer and his family.

Observations

236. The Special Rapporteur welcomes the release of Abed al-Fattah Ghanem from Ramallah Central Prison on 12 October 2000. However, the Special Rapporteur awaits a reply from the Palestinian authorities.

Peru

Communications sent

237. On 20 January 2000, the Special Rapporteur transmitted a communication to the Government requesting information regarding the reported closure on 9 December 1999 of the radio station Radio Libertad by the Ministry of Transportation and Communications, allegedly because it lacked official authorization and was airing clandestine broadcasts. It was also reported that Carlos Burmester, director of the programme Voice from the Street, had been threatened with civil, criminal and administrative sanctions unless he changed his independent journalistic style. Moreover, charges of slander and defamation had reportedly been brought against Rolando Rodrich Sarango, director of the Correo de Piura newspaper, and Vilma Herrea de Soto, following investigations carried out by the newspaper into administrative irregularities and abuse of authority within the judiciary. It was further alleged that Henry Vasquez Limo and Edgar Valladares Orozco, journalists for Frecuencia Latina - Canal 2, were beaten by a group of extremist members of the National Solidarity Party on 18 December 1999, while covering the launching of Luis Castañeda Lossio's presidential campaign. In addition, it was reported that Horacio Potest, a journalist with Caretas, received a one-year suspended prison sentence and was fined 20,000 new soles on charges of defamation in connection with articles alleging that a lawyer, Javier Corrochano Patrón, alleged to be linked to Vladimiro Montesinos, was involved in criminal activities. Furthermore, Carlos Infante Yupanqui, manager of the weekly Democracia, was reportedly threatened by Celestino Torres, a member of the Huamanga municipal council following the publication in the newspaper of a report on irregularities in a number of local institutions and organizations.

238. On 6 March 2000, the Special Rapporteur sent an urgent appeal concerning the case of Luis Villanueva López, the director of the radio programme La voz informativa, who had allegedly received death threats from Mayor Lorenzo Sanchez Cabanillas on 26 February 2000 after Mr. López reported irregularities about the mayor. It was also reported that Mr. Sánchez Cabanillas, a member of President Fujimori's party, had threatened to close Mr. López's radio programme. Mr. López had been allegedly threatened by another representative of the party on 12 May 1999 after he had criticized the local government.

239. On 29 May 2000, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on torture concerning Fabián Salazar Olivares, a journalist who had reportedly been beaten and tortured because he was in possession of information about corruption during the presidential elections. It was reported that, on 24 May 2000, four men had entered his office claiming they belonged to the Superintendencia Nacional de Administracion Tributaria. They allegedly tortured Mr. Salazar Olivares and tried to throw him out of the window. He had reportedly stated previously that he was under surveillance by the Servicio de Inteligencia Nacional. Fears had been expressed that Salazar Olivares might be tortured again.

240. On 11 October 2000, the Special Rapporteur transmitted a communication expressing concern at harassment and violence against journalists, most of them belonging to the opposition. According to the information received, the harassment suffered by the journalists included physical and verbal aggression and threats. On 16 May 2000, Santiago González Coronado, of the La República and El Popular newspapers, allegedly received death threats from the mayor of Putumayo district, Pablo Cumary Ashanga. On 22 January 2000, Armando Murrieta García, the programme director of Tercer Tiempo in Iquitos (Loreto) was allegedly assaulted. Furthermore, it was reported that, on 12 May 2000, freelance journalist Roger Luciano, Hugo González Hinestrosa from the newspaper Liberación and Omar Robles Torres, editor of Presencia were assaulted by a group of government officials. It was further alleged that, on 28 May 2000, Manuel Rosa Matos, programme director of Radio Loreto was attacked by the National Police and that Leddy Mozombite Linares, who works for Radio Santa Rosa, was reportedly attacked on 29 May 2000 and suffered sexual harassment. According to the information received, on 8 June 2000, Mónica Vecco, a journalist with La República, was physically assaulted by members of an organization called Grupo 5 de Abril. Furthermore, in June 2000, the Municipality of San Borja allegedly ordered the closure of the offices of the opposition newspaper Liberación. It was also reported that, on 12 September 2000, Alexis Fiestas Quintos and Víctor Granada, who work for the newspaper El Popular, were attacked by the mayor of San Juan de Lurigancho district, Ricardo Chiroque, and his security personnel.

Communications received

241. On 24 March 2000, the Government of Peru replied to the communication dated 20 January 2000 concerning the case of Carlos Burmester Landauro, explaining that an inspector of the Ministry of Transportation and Communications had gone to the premises of the Radio Company "Libertad" on 9 December 1999 to verify its legal situation, licence and payment of taxes and the operational condition of the equipment. Although all the documents proved to be in order, the closure of the station were requested on the basis of Acta de verificación. It was reported that the Ministry subsequently requested that the closure would not be enforced and acknowledged that the inspector had misused his power. On 10 December 1999, Mr. Burmester was informed that the radio channel Libertad could continue its normal activities. The Government also provided information about Rolando Rodrich Sarango, stating that he had been tried, found guilty of defamation and sentenced to pay US$ 100,000 compensation. The sentence was contested and an appeal was pending at the time the response was sent. With regard to Henry Vasquez Limo and Edgard Valladares Orozco, the authors of the assault were still unknown and investigations were being conducted by the National Police. In addition, the Government explained that Borazio Marcelo Potesta Zapata had been tried, found guilty of defamation on 22 December 1999 and received a suspended sentence of one year's imprisonment. An appeal of the sentence was still pending at the time of the reply. Furthermore, the Government informed the Special Rapporteur that personal protection measures were taken on 11 January 2000 by the prefecture of Hamanga on behalf of Carlos Infante Yupanuqui, at the request of the Association of Journalists of Ayacucho.

242. On 28 March 2000, the Government replied that, in the case of Luis Villanueva López, the alleged facts were being investigated by the competent authorities, in particular the Chepén Peruvian National Police station, with the involvement of the Government Procurator's Office, in accordance with the appropriate legal and administrative procedures. On 30 November 2000,

the Government transmitted further information on the results of the investigation. The Government informed the Special Rapporteur that it had not been possible to find reliable evidence of crimes of coercion and attempted murder committed against Luis Villanueva López.

243. In a reply dated 26 July 2000, the Government informed the Special Rapporteur that the authorities of Peru had taken all necessary measures to guarantee the physical integrity of Salazar Olivares. However, Salazar Olivares had refused all protection and failed to give needed information to officials in charge of the investigations, hindering the investigations themselves, which were still being carried out at the time of the reply.

244. On 7 December 2000, the Government transmitted a reply to the communication dated 11 October 2000. No complaint had been lodged with the Office of the Attorney-General concerning the alleged threats and attacks against Leddy Moxombit Linares, Mónica Vecco, César Hildebrant, Alexis Fiestas Quintos and Victor Granada. Neither had any complaint been received concerning, or request to investigate, the alleged violation of freedom of opinion and expression against Santiago Gonzales Coronado, Armando Murrieta García and Manuel Rosa Mattos.

Visit

245. Following the request to visit the country sent by the Special Rapporteur on 15 November 1999, an official invitation from the Government of Peru was extended to the Special Rapporteur on 4 April 2000. Several proposals as to dates were exchanged between the Special Rapporteur and the Government, which were not suitable to one or other side. The Special Rapporteur was unfortunately unable to visit the country on the latest date agreed to by the Government because of an unexpected commitment. He hopes to undertake the visit in the summer of 2001, after the presidential elections in Peru.

Observations

246. The Special Rapporteur thanks the Government of Peru for its replies and for having sent him information on the situation of freedom of opinion and expression in the country.

Qatar

Communication received

247. In a communication sent on 25 October 2000, the Government of Qatar transmitted comments to the Special Rapporteur in response to his note verbale of 28 August 2000 regarding the Principles on Freedom of Information Legislation ("The public's right to know") (E/CN.4/2000/63, annex).

Observations

248. The Special Rapporteur wishes to thank the Government for its reply.

Russian Federation

Communications sent

249. Jointly with the Chairman-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur sent an urgent appeal on 1 February 2000 with regard to the charges brought against Andrey Babitsky, a journalist with Radio Liberty, accused by officials of being pro-Chechen in his accounts of the conflict in Chechnya. It was believed that Andrey Babitsky was held incommunicado in Urus-Martan without access to his family or to a lawyer. It was reported by the Russian authorities that he was being held because he lacked special accreditation documents required for journalists to report from Chechnya and because of information implicating him with illegal armed groups.

250. A second joint urgent appeal concerning Andrey Babitsky was sent by the Special Rapporteur on 7 February 2000, this time with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on torture. According to the information received, Mr. Babitsky had been handed over to Chechen fighters in exchange for captured Russian soldiers. It was reported that he was in detention in Khankala, in Chechnya, and would shortly be transferred to the city of Mozdok, in the Republic of North Ossetia, and then to Moscow.

251. Together with the Special Rapporteur on torture, the Special Rapporteur sent an urgent appeal on 6 June 2000 regarding Taisa Isayeva, a Chechen journalist. She had reportedly been arrested by Russian forces on 2 June 2000 when she tried to cross the border from North Ossetia in the Russian Federation into Georgia at the "Nizhny Zaramag" border checkpoint, because she was carrying a video camera and a portable computer. She was allegedly held incommunicado at a secret "filtration camp".

252. On 19 September 2000, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on torture concerning Ruslan Alikhadzhiyev, the Speaker of the Chechen separatist "Republic of Incheria" Parliament, who had reportedly been arrested on 17 May 2000 in Shali by Russian troops. It was reported that, at a press briefing on 25 May 2000, the Deputy Chief of the General Staff of the Russian Army, General Manilov, confirmed that he had been captured. Ruslan Alikhadzhiyev had reportedly been taken first to a Russian military intelligence (GRU) facility in the Chechen town of Argun, before being transferred to a prison in Moscow, possibly the Lefortovo, run by the Russian Federal Security Service, where he is held incommunicado.

Communications received

253. By letter dated 22 August 2000, the Government responded that on 1 June 2000, Taisa Mutsolayevna Isaeva and F. Kovroyeva had been invited to go to the Vladikavkaz border unit in order to clarify the circumstances of their arrival at the "Nizhny Zaramag" checkpoint. Under a bilateral agreement between the Republic of Georgia and Russia, residents of the Chechen Republic could only enter Georgia via the "Verkhny Lars" checkpoint. After their identity had been established, it was suggested to them that they spend the night in the hotel of

the border unit, which they agreed to do. They were not detained and no property was confiscated and, on 2 June, they left the border unit. They did not submit any complaints to the border officials and their whereabouts were not known. Law enforcement bodies in the North Causasus had been instructed to continue inquiries to determine the whereabouts of T. Isayeva.

254. In a reply dated 9 October 2000, the Government informed the Special Rapporteur that R.S. Alikhadzhiev had not been arrested by federal troops and was not held by the Federal Security Service. The Government explained that he had been abducted in Shali on 17 May 2000 by unknown persons with firearms. On 27 July 2000, the procurator's office for the Shalinsk district had instituted criminal proceedings and a number of investigations had been undertaken to determine the identity of the perpetrators and R.S. Alikhadzhiev's whereabouts.

Observations

255. The Special Rapporteur thanks the Government for its replies and reiterates his wish to visit the country, as requested in letters dated 9 March 1999. He would also like to acknowledge the information he received about the sentencing on 13 December 2000 of Andrey Babitski by the Supreme Court of Dagestan to a fine of 8,350 roubles (US$300) for possession of a false passport

Sri Lanka

Communications sent

256. On 3 February 2000, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions concerning the death threats allegedly received by Jayalath Jayawardene, a member of Parliament and lawyer. It was reported that he had received threatening telephone calls since he was accused of facilitating contacts between the United National Party (UNP) and the Liberation Tigers of Tamil Eelam. He had reportedly been followed on several occasions by persons who threatened him.

257. The Special Rapporteur transmitted an urgent appeal on 8 June 2000 concerning restrictions imposed on the media following the announcement of emergency regulations under the existing public security ordinance. These measures enable the Government to suspend television and radio programmes, and to seize or close down any publication, including the Internet, which it considers a danger to national security. A number of newspapers were reportedly closed under these regulations: on 19 May 2000, the Sri Lankan army allegedly closed down the Jaffna newspaper Uthayan; on 22 May 2000, the Sunday Leader and the Sunday Peramuna were reportedly closed down for six months on accusations of publishing articles without official permission. Moreover, on 18 May 2000, the news editor of the private television station Teshan Network was interrogated by the police in connection with its report on a bomb attack which occurred in Batticaloa, in eastern Sri Lanka. In addition, it was reported that P. Seevagan, Taraki, Roy Denish and Saman Waagarachchi, all senior journalists, had written to the President of Sri Lanka seeking protection against death threats, aired on 3 June 2000 on the State-owned television network ITN, from the organization called Deshabhaktha Madhiya Viyaparaya.

258. On 27 October 2000, the Special Rapporteur transmitted a joint communication to the Government with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Representative of the Secretary-General on internally displaced persons to express their concern over the murder on 19 October 2000 of Mylvaganam Nimalarajan, a journalist who worked as the Jaffna correspondent of numerous media, including the BBC. He was reportedly killed by unidentified attackers who shot him through a window of his home in Jaffna. It was alleged that this attack was the work of the Eelam People's Democratic Party (EPDP), which had previously threatened him in connection with an article he wrote on 10 October. Mylvaganam Nimalarajan had been covering the Jaffna situation, including alleged widespread election rigging and the plight of internally displaced persons.

Communication received

259. On 31 January 2000, the Government of Sri Lanka replied to the communications sent by the Special Rapporteur on 18 June 1998 concerning the journalist Iqbal Athas and on 24 June 1998 regarding Lasantha Wickrematunga. The Government informed the Special Rapporteur that on 12 February 1998 armed men had entered the house of Iqbal Athas and threatened him and his family. A complaint was reportedly made to the Mirihana police station and an investigation was opened. The Government explained that, as a result of confidential inquiries, two people, Don Pradeep Sanjeewa Kannangara and H. M. Rukman Herath, were taken into custody and were to stand trial on 24 and 26 May 2000. Furthermore, the Government informed the Special Rapporteur, concerning alleged attacks against the journalist Lasantha Wickrematunga, that gunshots had been fired at his house on 17 June 1998, and that the police authorities concerned were conducting further investigations.

260. On 13 December 2000, the Government informed the Special Rapporteur, in reply to his communication of 3 February 2000, that, with regard to the alleged death threats against Jayalath Jayawardena, the Criminal Investigations Department had inquired into these allegations and had not been able to pursue its investigations in the absence of specific information or evidence with regard to the alleged threatening telephone calls he had received. The law enforcement authorities had conducted a further threat assessment concerning the personal security of Mr. Jayawardena which indicated that there was no specific threats against him. The Government stated that he had been provided with security at State expense and he was able to perform the normal functions of a member of Parliament.

Observations

261. The Special Rapporteur thanks the Government for its replies and awaits further information on the cases he raised this year. He would also like to reiterate his wish to visit the country, as requested in letters dated 29 April 1998 and 10 November 1999.

Sudan

Communications sent

262. On 28 March 2000, the Special Rapporteur transmitted a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on

the situation of human rights in the Sudan and the Special Rapporteur on torture concerning the arrest of Sidahmed Al Hardalou, a poet and former diplomat, and five journalists of the Al Sahafa newspaper: Kamal Hassan Bakheit, Ahmed Omar Rabie, Abdelgadir Hafiz, Rabie Hamid and Anwar Altikaina. It was reported that Al Hardalou and Bakheit were arrested on 22 March 2000 by Sudanese security forces and taken to the security offices in Khartoum North. The four other journalists were reportedly arrested on 23 March 2000. These arrests were allegedly linked to the publication of a number of articles in Al Sahafa supporting the National Democratic Alliance. It was alleged that they were held incommunicado and fears had been expressed that they might be at risk of torture.

263. On 4 July 2000, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on torture and the Special Rapporteur on the situation of human rights in the Sudan regarding a series of arrests and alleged acts of violence perpetrated against students following a seminar entitled "the current Crisis in the Sudan and future prospects" at the University of Sennar on 18 June 2000. Uniformed soldiers were said to have opened fire on people at the seminar, killing a student named 'Mirghami Mahmoud Al-Norman and injuring several others, including Salah Houli and Abu Shaiba. It was reported that, in the following days, there were many incidents of arrest, brief detention and torture of students by the police. In particular, the following students were reportedly arrested and tortured on 25 June 2000 by the security forces: Own Christopher, Mohamed Suliman Mahmoud, Tarig Awad, Alaa Eldeen Ahmed Osman, Medani Medani Mohamed, Khalid Hassan, Nizar Mohamed Awad, Alobied Hassan and Omer Mohamed Toam.

264. On 13 December 2000, together with the Chairman-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on torture, the Special Rapporteur sent an urgent appeal concerning the arrest of Ali al Said, Tijani Mustafa, Mohamed Mahjoub, Joseph Okailo, Mohamed Wida Ala, Suleiman Mustafa and Stans Jimmy Wongo, leading members of banned political parties and trade unions. They were reportedly arrested on 6 December 2000 by the Sudanese authorities during a meeting with a United States diplomat in Khartoum and accused of plotting an uprising backed by the rebel forces controlling southern Sudan and of passing on information to the rebels. It was reported that they had not been formally charged and had been held incommunicado. Fears were expressed that they might be at risk of torture.

Communications received

265. In a reply sent on 3 May 2000, the Government of the Sudan informed the Special Rapporteur that the summoning by government agents of the five journalists of Al Sahafa and Sidahmed Al Hardalou was predicated on the circumstances which gave rise to the declaration of the state of emergency. The Government explained that the purpose of the summoning was to conduct an inquiry, that the persons summoned were reportedly immediately released after completion of the investigation and that they were not subjected to any form of torture.

266. On 10 October 2000, the Government responded to the communication dated 4 July 2000, explaining that only four graduates from the University of Sennar had been summoned for investigation on suspicion of stirring up violence during the demonstrations and that they had been released immediately after signing affirmations to keep tranquillity and public peace in the University.

Observations

267. The Special Rapporteur thanks the Government for its replies. He expresses his concern, however, at the continued detention of Ali al Said, Tijani Mustafa, Mohamed Mahjoub, Joseph Okailo, Mohamed Wida Ala, Suleiman Mustafa and Stans Jimmy Wongo.

Syria

Communication sent

268. On 26 May 2000, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on torture concerning the detention of Nizar Nayouf, editor-in-chief of the monthly Sawt al-Democratiyya and Secretary-General of the Committee for the Defence of Democratic Freedoms in Syria. Arrested in January 1992 and sentenced by a military court to 10 years' of forced labour, he had reportedly been detained in harsh conditions and was suffering from serious injuries, allegedly due to torture inflicted on him by the prison authorities. He was reportedly unable to walk without a stick and to be suffering from an eye infection and back pain. It was also reported that Nizar Nayouf was returned to Mezze prison, after he had been taken from it on 26 April 2000 and after he refused to sign an undertaking not to be involved in any unauthorized political activity in exchange for his release.

Communication received

269. In a reply dated 6 June 2000, the Government informed the Special Rapporteur that Nizar Nayouf was receiving appropriate medical care and that he had been transferred to a hospital where he was under medical surveillance. Moreover, the state of health of Nizar Nayouf had been improving since he was placed on medication. The Government denied allegations that he had been offered his release in exchange for signing an undertaking.

Observations

270. The Special Rapporteur thanks the Government of Syria for its reply. However, he reiterates his concern over the continued imprisonment of Nizar Nayouf, who was the laureate of UNESCO on World Press Freedom Day, 3 May 2000, and who is still in detention, whereas 600 political prisoners, including some journalists, were released on 16 November 2000.

Tunisia

Communications sent

271. In an urgent appeal sent on 23 December 1999, the Special Rapporteur requested information with regard to Khémais Ksila, Vice-President of the Ligue tunisienne de défense des droits de l'homme. It was reported that, since his release on 22 September 1999, and in particular since the visit of the Special Rapporteur to Tunisia, from 6 to 10 December 1999, he had been subjected to constant surveillance by police officers. Furthermore, he was reportedly involved in a suspicious car accident involving a police vehicle on 14 December 1999.

272. Together with the Special Rapporteur on the right to education, the Special Rapporteur transmitted an urgent appeal to the Government on 17 August 2000 concerning Moncef Marzouki, a professor of medicine and spokesman for the Conseil national pour les libertés en Tunisie. According to the information received, he was discharged from his position as a professor at the University of Sousse following a hearing with the Ministry of Health on 27 July 2000. His dismissal reportedly followed his return from a trip to Europe and the United States, after a five-year revocation of his passport, during which he participated in meetings concerning the situation of human rights in Tunisia.

Communications received

273. In a reply dated 21 January 2000, the Government of Tunisia informed the Special Rapporteur that Khemaïs Ksila had not been subjected to police surveillance since his release and that no accident involving an administrative vehicle was recorded on 14 December 1999.

Observations

274. The Special Rapporteur thanks the Government for its reply. However, he awaits further information on the case of Mr. Marzouki, who was recently sentenced to one year's imprisonment. Furthermore, the Special Rapporteur would like to make some observations on the response of the Government to the report on his mission to Tunisia contained in a letter dated 26 May 2000 from the Permanent Representative of Tunisia to the United Nations Office at Geneva addressed to the United Nations High Commissioner for Human Rights (E/CN.4/2001/4). The Special Rapporteur would like to correct a misperception and would draw the attention of the Tunisian authorities to the fact that a copy of his report was transmitted to them on 29 February 2000, before it was issued, in accordance with the standard United Nations practice. The Special Rapporteur wishes to stress that his report was based on information transmitted to him before, during and after his mission by independent and credible sources and that each allegation was carefully verified to the best of his ability. Throughout his report the Special Rapporteur tried to take a balanced view, noting the positive achievements in Tunisia, but also the inadequacies with respect to freedom of opinion and expression with a view to helping the Tunisian authorities to examine them and find suitable correctives. The Special Rapporteur encourages the Government to continue to cooperate fully with him and other thematic mechanisms of the Commission on Human Rights.

Turkey

Communications sent

275. On 26 January 2000, the Special Rapporteur transmitted an urgent appeal concerning the charges brought against Nazmi Gur, the Secretary-General of the Human Rights Association of Turkey (IHD) on 25 January 2000. Nazmi Gur was reportedly charged with having assisted a terrorist group in contravention of article 169 of the Turkish Penal Code, following the publication on 1 September 1999 of an article by him entitled "It is not hard to reach peace". If convicted, he allegedly faces imprisonment for three to seven and a half years.

276. The Special Rapporteur transmitted an urgent appeal to the Government on 21 March 2000 with regard to the situation of Akin Birdal, ex-Chairman of the Association of Human Rights in Turkey. According to the information received, he was sentenced on 16 December 1998 to two one-year terms of imprisonment for speeches made in 1995 and 1996 in which he called on the Turkish authorities to negotiate a peaceful end to the conflict in the south-east of the country. Akin Birdal, who was imprisoned on 3 June 1999, was reportedly released on 25 September 1999 for six months on medical grounds. However, the charges against him were not dropped and he was allegedly due to go back to prison on 23 March 2000. It was further reported that he was to stand trial for a second time in Adana for a speech he allegedly made during the election campaign in December 1995.

277. In a communication sent on 19 October 2000, the Special Rapporteur requested further information about cases of intimidation and harassment against journalists which had been brought to his attention, in particular: an assault by the police against Unal Cetiner, a cameraman for Flash TV on 5 August 2000 while he was covering a demonstration in Istanbul; the beating, short detention and interrogation of Jülide Kaliç, a reporter with Yeni Evrensel, on 17 August 2000; the arrest and brief detention of Ergüren Top, a journalist with Yeni Gündem, on 27 August 2000, in connection with his coverage of a press conference by relatives of political prisoners; the brief detention of Cengiz Kapman and Meral Kocamis, who photographed Ergüren Top being arrested; the imprisonment of Esber Yagmurdereli, a human rights lawyer and playwright, rearrested on 1 June 1998 after he had been partially amnestied and released in November 1997 on health grounds. In addition, the Special Rapporteur addressed the suspension of newspapers and radio stations by the authorities brought to his attention: the seizing of Roja Teze on 24 June 2000 in connection with two articles referring to "Kurdistan" and the "Kurdish national movement"; the 90-day suspension by the Audio-visual Council of Turkey (RTÜK) of Umut Radio on 27 July 2000 for "inciting to violence, terror and ethnic discrimination" by broadcasting a song by the extreme-left group, Cemo; the one-year suspension by the RTÜK of Özgür Radyo on 23 August 2000 for broadcasting a song by the extreme-left group, Kizilrmak; the seizing of Yeni Gündem on 31 August 2000 by the Security Court of the State of Istanbul for publishing an article on the "Kurdish revolution"; the 10-day suspension of Yeni Evrensel on 6 October 2000 following publication of an article entitled "The Kurdish issue and the fight for equal rights", and the sentencing of its editor-in-chief, Tuncay Seyman, to a fine.

Communications received

278. The Government, in a reply sent on 6 June 2000, informed the Special Rapporteur that Nazmi Gur was acquitted by a decision of the State Security Court of Ankara on 3 February 2000.

279. On 25 September 2000, the Government of Turkey replied to the communication sent on 21 March 2000 concerning Akin Birdal, explaining that he was released on 23 September 2000, the day on which his sentence was completed. The Government further informed the Special Rapporteur that, as of 28 March 2000, while serving the last part of his sentence, he had received regular physiotherapy treatment in prison.

Observations

280. The Special Rapporteur thanks the Government for its replies. He welcomes the following important acquittals and releases which took place in Turkey in the past year: the acquittal of Nazmi Gur, the release of Akin Birdaland and the acquittal by the Beyoglu District Penal Court in Istanbul on 29 September 2000 of Nadire Mater, on behalf on whom he had sent a communication to the Government on 7 October 1999, and the lifting of the banning order on her book Mehmed's Book. Finally, the Special Rapporteur was delighted to learn that Esber Yagmurdereli, lawyer, playwright and human rights activist, was freed on 18 January 2001, after a review of his sentence under an amnesty announced in December 2000. The Special Rapporteur hopes that the above-mentioned individuals will no longer face imprisonment and harassment solely for the expression of their views.

Turkmenistan

Communications sent

281. Together with the Chairman-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur sent an urgent appeal on 10 January 2000 concerning Nurberdy Nurmammedov, the leader of the Democratic National Movement (Agzybirlik), reportedly arrested on 5 January 2000 at his home by officers of the Committee of National Security (KNB). Although details of the charges against him remained unknown, his arrest was believed to be linked to an interview he gave to a foreign radio station in December 1999 in which he described as unconstitutional the proclamation of President Niyazov as "President for life". He was reportedly detained at the internal detention facility of the KNB and had stated that he would go on hunger strike.

282. On 1 December 2000, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on torture and the Chairman-Rapporteur of the Working Group on Arbitrary Detention concerning the detention of Nikolai Nikolaevich Gherasimov, a correspondent for the Azerbaijan Azerpress news agency, in Krasnovodsk in a special isolation facility since his arrest on 7 November 2000. He had allegedly been sentenced to a five-year prison term for "fraud" after what had been described as a speedy trial. It had not been confirmed whether he had had access to his lawyer since his arrest.

Observations

283. No reply has been received from the Government so far.

Ukraine

Communication sent

284. On 21 September 2000, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on torture concerning the disappearance of Géorgiy Gongadze, founder and editor of the Internet newsletter Pravda Ukrayiny. According to the information received, Géorgiy Gongadze, who had complained that the police had intimidated and threatened him, failed to

return to his home in Kiev on 16 September 2000. It is believed that his arrest is connected to his activities as editor of a newsletter which reportedly criticizes the Government, in particular on issues such as corruption of senior officials. His whereabouts were not known and fears were expressed that he might be at risk of torture or other forms of ill-treatment. Furthermore, it was reported that Oleg Yeltsov, a reporter for the same newsletter, had received threats on 15 September.

Observations

285. The Special Rapporteur expresses his deep concern about the reported discovery on 2 November 2000 of the decapitated body of Géorgiy Gongadze in Tarachtcha, close to Kiev. The Special Rapporteur awaits further information from the Government on this case.

United Kingdom of Great Britain and Northern Ireland

Follow-up to the 24-29 October 1999 visit

286. On 12 May 2000, the Special Rapporteur received a communication from the Government in connection with his visit to the United Kingdom of Great Britain and Northern Ireland from 24 to 29 October 1999 (E/CN.4/2000/Add.3). The Government commented on some sections of the report, in particular concerning the draft freedom of information bill and other legal issues mentioned by the Special Rapporteur in his mission report.

287. The Government's reply is being issued in a document of the Commission on Human Rights at its present session (E/CN.4/2001/10, annex, pages 13-17).

288. The Special Rapporteur received additional communications in connection with his report on the visit to the United Kingdom of Great Britain and Northern Ireland, showing the interest raised by the issue of freedom of opinion and expression in this country. In particular, he received a letter on 24 July 2000 from Rear Admiral Nick Wilkinson, Secretary of the Defence, Press and Broadcasting Advisory Committee, commenting on paragraphs 58 to 61 of the report. Mr. Wilkinson mentioned, inter alia, that he is independent of the Government, but nevertheless a public servant, which made him accountable to the public. In addition, Mr. Wilkinson stated that there was absolutely no penalty on the media if they ignored D-notices, since use of the system was voluntary. He also mentioned that the areas of national security covered by the D-notice committee were not used to stifle debate but to prevent publication of genuinely damaging details. Finally, Mr. Wilkinson stressed that in neither of the two cases mentioned in the report - those of Tony Geraghty and David Shayler - was the D-notice system involved.

289. The Special Rapporteur replied to Mr. Wilkinson in a letter dated 10 August 2000 in which he emphasized that the section of his report that referred to the issuing of D-notices was drafted on the basis of allegations received during his mission from various well-known and credible organizations.

290. The Special Rapporteur thanks the Government of the United Kingdom for its clarifications.

United Republic of Tanzania

Communication sent

291. On 8 March 2000, the Special Rapporteur transmitted an urgent appeal concerning the alleged censorship of the Tanzanian media. It was reported that, at a ceremony launching the Tanzanian Media Council newsletter "Media watch" on 26 February 2000, the Director of the Tanzanian Information Services, Kassim Mpenda, threatened to shut down all newspapers which published stories or cartoons that defamed the President or were found to be seditious.

Observations

292. The Special Rapporteur awaits a reply from the Government.

United States of America

Communication sent

293. On 10 August 2000, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on torture concerning more than 400 peaceful demonstrators arrested by the Philadelphia police in the wake of the Republican Party Convention. Most of these individuals were said to have been arrested on 1 August 2000 in downtown Philadelphia where, it is reported, peaceful demonstrations against the death penalty, prison conditions, racism and related issues were taking place. More than 250 demonstrators were alleged to be still held in custody and were said to have been denied access to food, water and to the bathroom for extended periods. Some had reportedly been denied essential medication.

Observations

294. The Special Rapporteur regrets that no reply has been received from the Government so far.

Uruguay

Communication sent

295. On 24 August 2000, the Special Rapporteur transmitted an urgent appeal concerning the removal from his post as chief of police of Alvaro Vergar, Director of the Jefatura de Policía of Montevideo. According to the information received, he was dismissed as Director of the Jefatura de Policía and transferred to another unit with a hierarchically lower position after making a presentation on human rights and police practices at a seminar entitled "Violence, public order and democratic government" organized by the United Nations Development Programme from 21 July to 4 August 2000.

Observations

296. The Special Rapporteur regrets that no reply has been received from the Government.

Uzbekistan

Communications sent

297. On 20 December 1999, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention concerning the detention of Ismail Adylov, a member of the Independent Human Rights Organization of Uzbekistan (NOPCHU) and of the opposition movement Birlik. According to the information received, he was detained on 10 July 1999 after plainclothes officers of the Ministry of Internal Affairs came to his home without a warrant and took him to an unknown location. His whereabouts allegedly remained unknown until the lawyer engaged by his family was able to locate him on 21 July 1999 in Tashkent City prison. He was reportedly sentenced to six years' imprisonment on 29 September 1999 on charges of attempting to overthrow the constitutional order, sabotage and possessing materials constituting a threat to public security and order. Although the charges were officially brought in connection with documents allegedly found in his home, it was reported that he was detained for his human rights activities and his support for the democratic political opposition.

298. The Special Rapporteur transmitted an urgent appeal on 20 January 2000 concerning the closure on 20 November 1999 of the television station TV ALC in Urgench City. According to the information received, the transmission by the television station was stopped on the grounds that its transmitter was not guarded and could thus be taken over for anti-State propaganda, as well as on the basis of claims that its licence had expired. Both claims were allegedly unfounded. It was reported that Shuhrat Babadjanov, the director of the station, had received ultimatums from various governmental bodies concerning the broadcasting of programmes without prior review and approval.

Observations

299. No reply from the Government has been received so far.

Viet Nam

Communications sent

300. Together with the Chairman-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur sent an urgent appeal on 18 November 1999 concerning Thich Quang Do, a Buddhist monk, member of the Unified Buddhist Church of Vietnam (UBCV) and a human rights defender. Allegedly accused by the authorities of "threatening national security", he was summoned on 6 August 1999 to the headquarters of the Phu Nhuan Ward People's Committee in Ho Chi Minh City in connection with a letter he wrote on 20 June 1999 to ambassadors of the European Union present in Hanoi calling for the release of prisoners of conscience in Vietnam. It was reported that a warrant for his arrest was issued on 17 September 1999, as well as for that of two other UBCV monks, Thich Khong Tanh and Thich Tue Sy. Given Thich Quang Do's prior detention, on which the Working Group had taken action in 1997, it was feared that he faced imminent arrest and detention.

301. On 15 December 1999, the Special Rapporteur transmitted a communication requesting information on cases of imprisonment in labour camps, in particular that of Nguyn Dinh Huy, sentenced in 1995 to 15 years' of imprisonment and hard labour for organizing an international conference on economic development; Nguyen Ngoc Tan, sentenced to 11 years in prison in 1995; Thich Huyen Quang, Supreme Patriarch of the Unified Buddhist Church allegedly held without charges for 14 years; brother Mai Duc Chuong, a member of the Catholic Congregation of the Mother Co-Redemtprix, serving a sentence of 16 1/2 years for holding training courses and distributing religious books; Nguyen Ngo Dai, sentenced to 20 years for his "Essay on humanism". The Special Rapporteur also requested information concerning cases of harassment and house arrest following release from prison: Nguyen Dan Que, who spent more than 18 years in prison for his demanding free and multiparty elections and who had his telephone line cut, his Internet account cancelled and his mail intercepted after his call for freedom, democracy and an end to human rights abuses on 11 May 1999; Ha Si Phu, who served a 12-month sentence in 1996 for criticizing the Communist Party's policies and who was subjected to a six-week-long interrogation in April 1999; Tieu Dao Bao Cu and Bu Minh Quoc, who were subjected to interrogations and strict surveillance by security officials because of their writings, which allegedly protested the imprisonment of Ha Si Phu; Nguyen Hoang Ling, who was arrested in October 1997 because of a report on corruption among customs officials, sentenced to one year and 13 days' imprisonment for damage to the interests of the State and released after the trial; Nguyen Than Giang who was imprisoned in March 1999 for two months for possessing anti-socialist propaganda and who was the victim of police harassment and interrogation in October 1999; Thich Tue Sy, who spent 17 years in prison up until 1998 and was interrogated by the local police in September 1999. In addition, cases of former Vietnamese Communist Party members harassed because of their writings advocating reform were brought to the attention of the Special Rapporteur, in particular the cases of Tran Do, Nguyen Ho, Duong Thu Huong and Hoang Tien. Furthermore, it was reported that Doan Viet Hoat, released from prison in September 1998, was expelled from Viet Nam. Finally, the Special Rapporteur expressed his concerns about the Administrative Detention Directive, in particular article 2, which authorizes security officials to detain individuals for up to two years without trial and keep them under house arrest on grounds of national security.

302. On 4 July 2000, together with the Chairman-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur sent an urgent appeal concerning the scientist and political essayist Dr. Nguyen Xuan Tu, better known by his pen name, Dr. Ha Sy Phu. According to the information received, the police raided his home in Dalat on 28 April 2000 and confiscated some of his personal property. On 12 May 2000, he was reportedly placed under house arrest in Dalat, without any legal justification being provided by the Vietnamese judicial authorities, under Administrative Detention Directive 31/CP, which provides for indefinite house arrest without due process.

303. On 25 August 2000, the Special Rapporteur transmitted a joint urgent appeal with the Special Rapporteur on torture with regard to Thich Huyen Quang, the Supreme Patriach of the Unified Buddhist Church of Viet Nam (UBCV), who was believed to have been detained under house arrest since December 1994 in Nghia Hanh village, Quang Ngai province. Arrested on 29 December 1994 following a government clamp-down on the activities of the UBCV, he

was allegedly detained without trial. On 5 July 2000, he was reportedly subjected to renewed interrogation and harassment by the security police because of a letter he sent in April 2000 in which he called for national reconciliation and respect for human rights.

Communication received

304. In a communication dated 31 July 2000, the Government of Viet Nam informed the Special Rapporteur that a case against Ha Sy Phu was brought to the local court in Lam Dong province on 10 May 2000 in connection with his involvement in activities which violated the provisions of the Criminal Code of Viet Nam. The Government explained that he was allowed to stay at home because the court had not issued an arrest warrant against him. The Government denied that he was held under Administrative Detention Directive 31/CP.

Observations

305. The Special Rapporteur thanks the Government for its reply but awaits further information on the cases he raised this year. He would also like to reiterate his wish to undertake a visit in the country, as expressed in letters dated 18 March 1996 and 10 November 1999.

Yemen

Communication sent

306. On 28 February 2000, the Special Rapporteur sent an urgent appeal to the Government concerning Jamal Amer, editor and columnist for the opposition weekly newspaper Al-Wahdawi. According to the information received, on 22 February 2000, a Sana'a court ordered a 30-day suspension of the publication and permanently banned Jamal Amer from practising journalism in Yemen after he published an article on 10 August 1999 describing the struggles that allegedly took place within the Saudi royal family in 1999.

Communication received

307. In a reply dated 27 March 2000, the Government informed the Special Rapporteur that Jamal Amer was sentenced to pay a fine of 5,000 rials as a public disciplinary measure and was prohibited from practising the profession of journalism as an additional penalty - which was not a lifelong penalty. The Government explained that the sentence, issued in connection with the article which was said to have harmed relations between the Kingdom of Saudi Arabia and Yemen, was in accordance with the provision of article 106 (a) of the Press and Publications Act. It further stated that the defendant had the right to lodge an appeal against the judgement.

Observations

308. The Special Rapporteur thanks the Government for its reply.

Yugoslavia (Federal Republic of)

Communications sent

309. On 15 December 1999, the Special Rapporteur sent an urgent appeal regarding the defamation charges brought on 8 December 1999 against the newspapers Blic, Danas, and Studio B by the Information Minister, Aleksandar Vucic, and the Deputy Prime Minister, Vojislav Seselj. The accusations were allegedly raised in connection with an article published on 4 December 1999 which reported statements made by Vuk Draskovic implicating the Serbian Secret Service in a recent assassination attempt against him. The three newspapers were penalized with heavy fines, which they were required to pay within 24 hours or risk seizure of corporate assets. It was reported that individuals might face up to 30 days in prison for non-payment of fines.

310. The Special Rapporteur transmitted an urgent appeal on 24 February 2000 with regard to threats reportedly made on 10 February 2000 by the Deputy Prime Minister, Vojislav Seselj, against the following print and electronic media: B2-92, Danas, Glas Javnosti, Vecernje Novosti and Blic. According to the information received, the Deputy Prime Minister accused independent Serbian journalists of being "traitors" and "accomplices" in the killing of Yugoslav Defence Minister Pavle Bulatovic and threatened violence against those journalists working for a "traitorous media". Moreover, after the Yugoslav Minister of Information stated on 11 February 2000 that some elements of the Serbian media were working to destabilize the country, concerns were expressed that this was part of a strategy of intimidation directed at journalists working for media not controlled by the State.

311. On 13 March 2000, the Special Rapporteur sent an urgent appeal concerning the charges brought against Studio B on 6 March 2000. It was reported that the Yugoslav Minister of Telecommunications served Studio B with an order to pay Serbian Telecom 10,755,314 dinars in fees usually charged for the temporary use of radio frequencies and television channels. As the holder of permanent licences, Studio B should reportedly have been exempted from that fee. Moreover, it was reported that, on 6 March 2000, Studio B had its transmission equipment stolen by attackers who reportedly wore police uniforms. In addition, the editor-in-chief and general manager of Studio B was reportedly fined 450,000 dinars for alleging involvement of the police in the attack on Studio B.

312. The Special Rapporteur sent an urgent appeal on 17 May 2000 concerning the police raid and seizure of the offices of Studio B on 17 May 2000. It was reported that the Serbian authorities took control of the station because it had repeatedly called for the overthrow of the Serbian Government, and that they dismissed the management and appointed Ljuboslav Aleksic, known to be close to the Serbian Government, as editor-in-chief of the station. Moreover, the attack on Studio B stopped the transmission of Radio B2-92, which broadcast from Studio B's facilities. In addition, it was reported that access to the building housing Radio Index and the daily Blic was blocked to their journalists.

313. On 28 July 2000, the Special Rapporteur transmitted an urgent appeal to the Government concerning the sentencing, on 26 July 2000, of Miroslav Filipovic, a journalist with the independent daily Danas and with Agence France Presse, and a member of the Helsinki

Committee on Human Rights, to five years' imprisonment for espionage and to an additional two years for propagation of false information following a trial held in camera. He was reportedly arrested on 8 May 2000 by the Serbian Security Forces, released on 12 May, rearrested 10 days later and kept in custody for 30 days by the Military Court of Nis on allegations of espionage and dissemination of false information. His detention was allegedly prolonged by the military tribunal in order to prevent him from leaving the country he was indicted on 14 June 2000 in connection with the publication of articles regarding crimes committed by the Yugoslav army during the North Atlantic Treaty Organization intervention in Kosovo.

314. On 13 September 2000, the Special Rapporteur transmitted an urgent appeal concerning measures and actions taken against independent media in the Federal Republic of Yugoslavia. Two bans on television broadcasts had been brought to the attention of the Special Rapporteur: on 9 September 2000, the Yugoslav police seized the transmitter of TV Cacak, a measure allegedly taken in relation to the broadcasting of the election campaign of Vojislav Kostunica; on 7 September 2000, the staff of TV Rosulja was reportedly evicted from its offices by the municipal authorities of Vlsotince following frequent broadcasts by opposition candidates. In addition, it was reported that, on 29 August 2000, the Federal Ministry of Information ordered Novi Sad cable network stations to stop broadcasting the news programmes of five non-Serbian television stations, RTV Crna Gora, HRT2, HRT3, OBN and Duna-TV, under article 27 of the Law of Information. It was also reported that the work of two independent radio stations, Radio Jasenica and Radio Globus, was disrupted when their signals were jammed on 16 August and 22 August 2000 respectively. The Special Rapporteur expressed his concern about reports linking the disruption of the work of these independent radio and television stations with the federal presidential and legislative elections planned for 24 September 2000.

Communications received

315. By a letter dated 18 May 2000, the Permanent Mission of the Federal Republic of Yugoslavia informed the Special Rapporteur that violations of the freedom and independence of reporting of media and journalists in Kosovo and Metohija had been perpetrated by the International Security Force in Kosovo (KFOR) and the United Nations Interim Administration in Kosovo (UNMIK) in May 2000.

316. By a letter dated 28 August 2000, the Permanent Mission of the Federal Republic of Yugoslavia informed the Special Rapporteur that the High Representative of the international community in Bosnia and Herzegovina had given an ultimatum on 18 August to the personnel of the Radio Yugoslavia transmission centre in Bijeljina to vacate the centre within 48 hours and stop broadcasting the programme of the State radio.

Observations

317. The Special Rapporteur thanks the Government for the information provided regarding issues pertaining to freedom of expression in the Federal Republic of Yugoslavia, but awaits further information on the cases he raised this year. Moreover, the Special Rapporteur

welcomes the release of Miroslav Filipovic on 10 October 2000 after an appeal court overturned his conviction for espionage and spreading false information and after incoming President Vojislav Kostunica pardoned him the previous day.

Zambia

Communication sent

318. On 1 February 2000, the Special Rapporteur sent an urgent appeal concerning an alleged crack-down on journalists working for newspapers which have been critical of the Government. It was reported that David Kapangalwendo, a member of Parliament for the ruling party, had made comments threatening the safety and security of journalists, in particular in the Post newspaper, saying "they have gone too far". He reportedly requested that the Ministry of Home Affairs and the Government "do something about such newspapers" and urged that action be taken against newspapers which make negative statements about the Government.

Observations

319. The Special Rapporteur regrets that no reply from the Government has yet been received.

V. CONCLUSIONS AND RECOMMENDATIONS

320. While the Special Rapporteur notes with satisfaction a growing tide in favour of human rights and that almost all Governments seem to be upholding the sanctity of the principles of freedom of opinion and expression, at the same time he is still encountering innumerable cases of great violations of human rights.

321. The Special Rapporteur cannot help but view with dismay the content of the communications received in the past year. It is clear from them that the rights to freedom of opinion, expression and information are violated, almost as a matter of routine, in States with widely different political systems and institutional frameworks for governance. There are countries where these rights do not enjoy even the minimum protections and guarantees set out in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and associated international human rights instruments. In this regard, the Special Rapporteur encourages all States that have not ratified the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights to do so. Furthermore, he again urges all Governments to scrutinize their domestic legal systems with a view to bringing them into line with international standards governing the right to freedom of opinion and expression. Particularly with regard to the issue of national security, the Special Rapporteur urges all Governments to review not only laws specifically intended to protect national security but also ordinary criminal laws which may be used to infringe the rights to freedom of opinion and expression and to information. The criminal justice and the police systems also need to be overhauled to ensure a greater sense of justice and fairness on the part of the police. The Governments may also consider the feasibility of setting up national human rights commissions and positions of Ombudsman where these institutions do not exist.

322. In the light of the large number of allegations received relating to the abuse of libel and defamation laws, the Special Rapporteur would like to recall the recommendation made in his report last year (E/CN.4/2000/63, para. 205) that Governments should ensure that press offences are no longer punishable by terms of imprisonment, except in cases involving racist or discriminatory comments or calls to violence. Along the same lines, the Special Rapporteur would urge all Governments to ensure that the fines which the media or any organization/individual are sentenced to pay for offences such as "defamation", "libel", "insults" and publication of "false" or "alarmist" information are not out of proportion to the harm suffered by the victims. In no event should such fines be used by Governments with the intention of limiting the free flow of information and ideas.

323. The Special Rapporteur considers the increasing involvement of non-State individuals and entities in violations of the right to freedom of opinion and expression to be of grave concern. He invites the Commission on Human Rights to consider how and by what means the international community may give continuing and coherent attention to the question of non-State actors and actions by them that infringe upon or negate the rights to freedom of opinion and expression.

324. As regards the impact of new information technology on the right to freedom of opinion and expression, the Special Rapporteur would like to recall that new technologies, and in particular the Internet, are inherently democratic, provide the public and individuals with access to information sources and enable all to participate actively in the communication process. He remains concerned at information received regarding the efforts of some Governments either to control or shut down access to the Internet. The Special Rapporteur would, to the contrary, encourage Governments to increase the capacities in every country, in order to democratize the new technologies and to reduce the gap between the technologically advanced countries and others.

325. With respect to the right to freedom of opinion and expression of women, the Special Rapporteur urges Governments to take all necessary steps to remove formal and cultural obstacles to the exercise by women of their right to freedom of expression, including to receive information, and ultimately to give effect to all their rights. He would like to draw the particular attention of Governments to the recent adoption by the Security Council of resolution 1325 (2000), in which it urged States to ensure increased representation of women at all decision-making levels in national, regional and international institutions and mechanisms for the prevention, management and resolution of conflicts. Furthermore, the Special Rapporteur reiterates his hope of being able to prepare a report jointly with the Special Rapporteur on violence against women, to be submitted to the Commission on Human Rights next year. In this regard, he again invites submissions by Governments, intergovernmental organizations and specialized agencies, as well as non-governmental bodies.

326. Finally, in accordance with Commission resolution 1999/49 requesting the Special Rapporteur to integrate the protection of HIV-related human rights within his mandate, the Special Rapporteur would like to call on all Governments, NGOs and other specialized organizations to provide him with information relating to the issue of HIV and access to information, in order for him to present his recommendations to the Commission on Human Rights at its next session.

Notes

[1] Defining Defamation: Principles on Freedom of Expression and Protection of Reputation, ARTICLE 19, London, July 2000.

[2] UNDP, Human Development Report 2000, New York, 2000, chap. 5, section entitled "Realizing the right to information".

[3] Ibid.

[4] Ibid.

[5] Op. cit., chap. 6, section entitled "Promote human rights norms".

Annex I

THE BERLIN DECLARATION

6 November 2000

On 6 November 2000, leading media professionals and officials from the OSCE participating States, from the United Nations and the Council of Europe met in Berlin at a round table organized by the OSCE Representative on Freedom of the Media, and the Ministry of Foreign Affairs of Germany to discuss the protection of journalists in conflict areas. They adopted the following declaration.

Journalists in danger - How we can help

The discussion at the Berlin Round Table underlined that the reality of conflict has changed considerably over the past years. During the last two decades, most journalists killed were casualties of internal conflicts. This type of "terror warfare" has considerably changed the conditions on the ground, not only for military personnel but also for civilians, including journalists. Many participants stressed that the global media market puts "pressure of presence" on journalists through the demand of the media market to produce news in real time. This increasingly placed journalists in harm's way.

In 1991, the OSCE participating States committed themselves in Moscow to protect journalists, particularly in cases of armed conflict. The United Nations, on several occasions, also expressed its strong support for measures to protect journalists.

The Round Table in Berlin is the second step taken by the OSCE Representative on Freedom of the Media. He held a meeting with journalists and non-governmental organizations (NGOs) in London in September 1999.

However, more can still be done to provide support to journalists covering conflict areas. Already training sessions are organized by media companies and NGOs. Protection gear is available, as well as insurance. A number of international organizations in post-conflict areas offer a hotline for journalists in trouble. Although deliberately killing a journalist in time of war, as with any other civilian, can be classified as a war crime, little had been done to bring perpetrators to justice. This issue may be discussed as part of the ongoing debate on the International Criminal Court. Nevertheless, Governments could enhance their efforts to investigate the murders of journalists and to cooperate to this end. Governments should also make it clear within international organizations that the killing of journalists is not acceptable to the international community.

The participants commended leading media companies, among them Reuters, AP, CNN, BBC, as well as NGOs, for developing universal guidelines relating to the safety and protection of journalists. However, these guidelines should not become excuses for Governments to exclude journalists or restrict coverage. The participants underlined that OSCE participating States should consider the idea that all journalists, including freelance and local journalists, have

access to safety standards and financial assistance in times of need. But most critical is that news organizations must assume responsibility for the safety of those who work for them, be they staff or freelancers.

Regarding distinctive signs for journalists, it was stressed that this was an issue for journalists themselves to decide, but that an open discussion of physical threats against journalists was needed.

The participants agreed that the discussion on journalists in conflict areas should continue in the framework of the OSCE, the United Nations, the Council of Europe and other relevant international organizations and NGOs.

Annex II

THE LIMA PRINCIPLES

Preamble

Affirming that the rights to freedom of expression and access to information are fundamental to the very existence of a democratic society and are essential for the progress, welfare and enjoyment of all other human rights,

Recognizing that these are inherent rights, neither granted nor conferred by the State, that the State cannot disregard them, and that their protection is essential,

Recalling that the international and regional instruments which guarantee and protect these fundamental rights impose on States the obligation not only to observe but to promote universal and effective respect for human rights,

Recognizing the important initiatives undertaken by civil society towards the effective implementation of these rights, in particular the Declaration of Chapultepec, the Declaration of Principles on Freedom of Expression of the Inter-American Commission on Human Rights and the Johannesburg Principles,

Welcoming the important efforts being made by the Special Rapporteurs on freedom of expression at the United Nations and the Organization of American States to promote and protect freedom of expression and the right to information,

Affirming that it is essential that people have access to information held by the State in order to ensure the accountability of those who govern them, to allow citizens to participate fully in a democratic society and to guarantee the enjoyment of other human rights,

Considering that transparency reduces the possibility of abusing power, that freedom of information in situations of democratic transition can contribute to truth, justice and reconciliation, and that lack of information adds to the difficulty of transition and reduces its credibility,

Reiterating that issues of national security can never justify restrictions on freedom of expression and access to information that are contrary to the public interest as set out in these principles,

We agree upon the following principles and urge all authorities, officials and persons at the local, national, regional and international levels to commit themselves to adopting the necessary measures to promote their dissemination, acceptance and implementation.

Principles

1. Access to information as a human right

Every person has the right to be free to seek, receive, have access to and disseminate information without interference from the public authorities, prior censorship or indirect restrictions due to the abuse of official control. There is no obligation on the individual to state the motive for exercising this right. Access to information is both an individual right and necessary for a democratic society. The right covers both those who actively seek information and those who expect to receive information through the media and/or through official channels.

2. Access to information in a democratic society

Every person has the right to ensure accountability in the work of the public administration, of State entities in general, and of public service companies. In order to carry out this task effectively, people require access to information held by the authorities. The authorities must be legally required to make information available to people in a timely and complete manner. It is the Government's responsibility to create and maintain public records in a serious and professional way, so that the right to information can be exercised effectively. Records should not be arbitrarily destroyed. This, in turn, requires a public policy which preserves and develops a corporate memory within the institutions of government.

3. Transparency and development

Access to information is indispensable for the scrutiny of and adequate debate on government action that are essential not only for transparent management of public bodies, but also to avoid corruption and other abuses of power. This right permits people to participate in public affairs and in decision-making and, more generally, permits the identification of public servants' responsibilities, the objective evaluation of facts and the forming of opinion in order to increase participation in the political, economic, social and cultural life of the country.

4. The authorities' obligations

Information belongs to the citizens. Information is not the property of the State and access to it is not to be granted as a governmental favour. The Government holds information only in its role as the representative of the citizens.

The State and public service companies are obligated to respect and guarantee access to information for all individuals and to adopt the necessary legislative or other measures to promote respect for this right and to ensure its effective recognition and implementation. It is the State's obligation to promote a culture of transparency in society and in the public sector and to act with due diligence in facilitating access to information, identifying those who should provide information, forestalling actions which prevent its disclosure and sanctioning offenders.

The conduct of officials who refuse access to information and the existence of legislation that allows this undermine this right.

5. Journalism and access to information

Governments are obliged to guarantee and respect journalists' right to exercise their profession, and the independence of the media. Journalists must be guaranteed the necessary conditions to obtain and disseminate information. Officials who interfere with this process must be subject to sanctions.

6. Protection of journalists' sources

No journalist should be compelled by a judicial or other public authority to reveal his or her sources of information or the content of notes or personal or professional files.

7. Legislation on access to information

Norms establishing the right of access to information must guarantee the maximum amount of transparency and must specify that every person is entitled to exercise this right; that the information should be presented in the format requested by the applicant or at least in its original format; that the costs of the search, subsequent processes and transmission of the information will be assumed by the applicant through payment of a fee, which should not exceed the cost of the service; that the deadlines for access to and provision of information should be reasonable; and that appropriate sanctions will be established for officials who refuse to provide the requested information.

8. Exceptions to the right of access to information

Exceptions to the right of access to information may be legitimately provided for only in the Constitution and by law, in accordance with the principles of a democratic society, to a limited extent and only where necessary to protect a legitimate national security interest or the individual's legitimate right to privacy. Information shall not be kept secret on the basis of unpublished regulations. Any person or official who refuses to provide access to requested information will have to justify this refusal in writing and demonstrate that the information is included in the restricted category of exceptions. If the person seeking the information so requests, an impartial and competent judicial authority may review such refusal and may order the release of the information.

The withholding of information under a broad and imprecise definition of national security is unacceptable. Any restrictions on the grounds of national security will only be valid when their aim is to protect the territorial integrity of the country and in exceptional circumstances of extreme violence that threaten the imminent collapse of the democratic order. Any restrictions based on grounds of national security are not legitimate if their purpose is to protect the Government's interests rather than those of society as a whole.

Privacy laws should not inhibit or restrict investigation and dissemination of any information in the public interest.

The law, having defined specified categories of classified information, shall establish reasonable deadlines and procedures for declassification as soon as the national security interest allows. In no case may information remain classified indefinitely.

9. Protection of whistleblowers

No public servant or other person should be subject to any sanction for the disclosure of information classified under the restrictions referred to above, if the public interest in being informed outweighs the consequences that might arise from disclosure. In such cases the individual may benefit from special protection.

10. Legal protection of the right of access to information

The autonomy and independence of the judiciary is fundamental to guaranteeing the right of access to public information in cases where the authorities or officials refuse to disclose information or place restrictions on its exercise. Prompt judicial action is indispensable to protect this right and to generate public confidence and transparency in the exercise of power. Added to these judicial mechanisms of protection is the right to petition other institutions, such as the Ombudsman's office, and supranational bodies established to protect this and other rights.

Any existing regulations which contravene these principles should be abolished.

Adopted by the Seminar on Information for Democracy
Lima, 16 November 2000

Annex III

INTER-AMERICAN DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION

Preamble

Reaffirming the need to ensure respect for and full enjoyment of individual freedoms and fundamental rights of human beings under the rule of law,

Aware that consolidation and development of democracy depends upon the existence of freedom of expression,

Persuaded that the right to freedom of expression is essential for the development of knowledge and understanding among peoples that will lead to true tolerance and cooperation among the nations of the hemisphere,

Convinced that any obstacle to the free discussion of ideas and opinions limits freedom of expression and the effective development of a democratic process,

Convinced that guaranteeing the right to access to information held by the State will ensure greater transparency and accountability of governmental activities and the strengthening of democratic institutions,

Recalling that freedom of expression is a fundamental right recognized in the American Declaration on the Rights and Duties of Man and the American Convention on Human Rights, the Universal Declaration of Human Rights, resolution 59 (1) of the United Nations General Assembly, resolution 104 adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization (UNESCO), the International Covenant on Civil and Political Rights, as well as in other international documents and national constitutions,

Recognizing that the member States of the Organization of American States are subject to the legal framework established by the principles of article 13 of the American Convention on Human Rights,

Reaffirming article 13 of the American Convention on Human Rights, which establishes that the right to freedom of expression comprises the freedom to seek, receive and impart information and ideas, regardless of borders and by any means of communication,

Considering the importance of freedom of expression for the development and protection of human rights, the important role assigned to it by the Inter-American Commission on Human Rights and the full support given to the establishment of the Office of the Special Rapporteur for Freedom of Expression as a fundamental instrument for the protection of this right in the hemisphere at the Summit of the Americas in Santiago, Chile,

Recognizing that freedom of the press is essential for the full and effective exercise of freedom of expression and an indispensable instrument for the functioning of representative democracy, through which individuals exercise their right to receive, impart and seek information,

Reaffirming that the principles of the Declaration of Chapultepec constitute a basic document that contemplates the protection and defence of freedom of expression, freedom and independence of the press and the right to information,

Considering that the right to freedom of expression is not a concession by the States but a fundamental right,

Recognizing the need to protect freedom of expression effectively in the Americas, the Inter-American Commission on Human Rights, in support of the Special Rapporteur for Freedom of Expression, adopts the following Declaration of Principles:

Principles

1. Freedom of expression in all its forms and manifestations is a fundamental and inalienable right of all individuals. Additionally, it is an indispensable requirement for the very existence of a democratic society.

2. Every person has the right to seek, receive and impart information and opinions freely under terms set forth in article 13 of the American Convention on Human Rights. All people should be afforded equal opportunities to receive, seek and impart information by any means of communication without any discrimination for reasons of race, colour, sex, language, religion, political or other opinions, national or social origin, economic status, birth or any other social condition.

3. Every person has the right to access to information about himself or herself or his/her assets expeditiously and not onerously, whether it be contained in databases or public or private registries, and if necessary to update it, correct it and/or amend it.

4. Access to information held by the State is a fundamental right of every individual. States have the obligation to guarantee the full exercise of this right. This principle allows only exceptional limitations that must be previously established by law in case of a real and imminent danger that threatens national security in democratic societies.

5. Prior censorship, direct or indirect interference in or pressure exerted upon any expression, opinion or information transmitted through any means of oral, written, artistic, visual or electronic communication must be prohibited by law. Restrictions to the free circulation of ideas and opinions, as well as the arbitrary imposition of information and the imposition of obstacles to the free flow of information violate the right to freedom of expression.

6. Every person has the right to communicate his/her views by any means and in any form. Compulsory membership or the requirements of a university degree for the practice of journalism constitute unlawful restrictions of freedom of expression. Journalistic activities must be guided by ethical conduct, which should in no case be imposed by the State.

7. Prior conditioning of expressions, such as truthfulness, timeliness or impartiality is incompatible with the right to freedom of expression recognized in international instruments.

8. Every social communicator has the right to keep his/her source of information, notes, personal and professional archives confidential.

9. The murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of the State to prevent and investigate such occurrences, to punish their perpetrators and to ensure that victims receive due compensation.

10. Privacy laws should not inhibit or restrict investigation and dissemination of information of public interest. The protection of a person's reputation should only be guaranteed through civil sanctions in those cases in which the person offended is a public official, a public person or a private person who has voluntarily become involved in matters of public interest. In addition, in these cases, it must be proven that in disseminating the news, the social communicator had the specific intent to inflict harm, was fully aware that false news was disseminated, or acted with gross negligence in efforts to determine the truth or falsity of such news.

11. Public officials are subject to greater scrutiny by society. Laws that penalize offensive expressions directed at public officials, generally known as "desacato laws", restrict freedom of expression and the right to information.

12. Monopolies or oligopolies in the ownership and control of the communication media must be subject to anti-trust laws, as they conspire against democracy by limiting the plurality and diversity which ensure the full exercise of people's right to information. In no case should such laws apply exclusively to the media. The concession of radio and television broadcast frequencies should take into account democratic criteria that provide equal opportunity of access for all individuals.

13. The exercise of power and the use of public funds by the State, the granting of customs duty privileges, the arbitrary and discriminatory placement of official advertising and government loans; the concession of radio and television broadcast frequencies, among others, with the intent to put pressure on and punish or reward and provide privileges to social communicators and communications media because of the opinions they express threaten freedom of expression, and must be explicitly prohibited by law. The means of communication have the right to carry out their role in an independent manner. Direct or indirect pressures exerted upon journalists or other social communicators to stifle the dissemination of information are incompatible with freedom of expression.

Approved by the Inter-American Commission on Human Rights
at its 108th regular session

Annex IV

JOINT UNITED NATIONS-OSCE-OAS PRESS RELEASE

3 May 2000

Free journalism - the shield of democracy in periods of conflict

On the occasion of World Press Freedom Day, 3 May 2000, **Abid Hussain**, United Nations Special Rapporteur on freedom of opinion and expression, **Freimut Duve**, OSCE Representative on freedom of the media and **Santiago Canton**, OAS Special Rapporteur on freedom of expression joined in a statement about the harassment and killing of journalists in conflict situations:

We note with deep concern that, in 1999, 87 journalists and media personnel were reportedly killed while carrying out their assignments, many in the context of conflict or post-conflict situations.

We emphasize the importance of access to information and, in particular, the right of journalists to seek, receive and impart information. Journalists are the shields of democracy - all the more during periods of conflict and tension. Free access to war zones is essential in order to enable journalists to fulfil their mission of informing the public.

We urge Governments to respect and protect fully the right to freedom of expression, and the right of access to information in particular, by guaranteeing the security and safety of journalists in conflict and post-conflict areas. Guarantees should also be provided to prevent journalists from being subject to influence and pressure, so that the information they provide remains fair, impartial and non-partisan.

We recall that, in accordance with international standards, during periods of conflict and tension, only the narrowest limitations may be imposed on the right to freedom of expression and information, and the law must have prescribed these. Consequently, all national laws that restrict this right in an abusive manner should be repealed.

We reaffirm that in post-conflict situations the re-establishment of a free, independent and pluralist press constitutes an essential step towards rebuilding and strengthening democratic institutions.

We reiterate that Governments and other power groups should refrain from using the media as a propaganda machine to call for violence and to disseminate racial hatred.

We express concern about the lack of common principles regarding the access of journalists to areas of conflict or tension and request the international community to take adequate steps to ensure minimum standards applicable to all.

Abid Hussain
United Nations Special Rapporteur on freedom of opinion and expression

Freimut Duve
OSCE Representative on freedom of the media

Santiago Canton
OAS Special Rapporteur on freedom of expression

Annex V

JOINT DECLARATION BY THE UNITED NATIONS SPECIAL RAPPORTEUR ON FREEDOM OF OPINION AND EXPRESSION, THE OSCE REPRESENTATIVE ON FREEDOM OF THE MEDIA AND THE OAS SPECIAL RAPPORTEUR ON FREEDOM OF EXPRESSION

Having met with representatives of NGOs, UNESCO, journalists' associations and human rights experts in London on 29 and 30 November 2000, under the auspices of ARTICLE 19, Global Campaign for Free Expression, assisted by Canadian Journalists for Free Expression;

Recalling and reaffirming their Joint Declaration, made in London on 26 November 1999;

Noting the importance of regional mechanisms in promoting the right to freedom of expression and the need to promote such mechanisms in every region of the world;

Welcoming the recommendation of the African Commission on Human and Peoples' Rights Seminar on Freedom of Expression and the African Charter that a special rapporteur or other mechanism on freedom of expression be established for Africa;

Encouraging moves in ASEAN and in the Asia and Pacific region to develop regional mechanisms for the promotion and protection of human rights;

Supporting the Inter-American Declaration of Principles on Freedom of Expression of the Inter-American Commission on Human Rights;

Endorsing the ARTICLE 19 document, "Defining defamation: principles on freedom of expression and protection of reputation";

Stating our intention to adopt a joint statement on racism and the media as part of the preparatory process for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance;

Adopt the following Declaration:

Two threats to freedom of expression and the free flow of information and ideas have now reached crisis proportions in many parts of the world:

Attacks on journalists and others exercising their right to freedom of expression (censorship by killing); and

The abuse of restrictive defamation and libel laws.

Censorship by killing

Attacks such as the murder, kidnapping, harassment of and/or threats to journalists and others exercising their right to freedom of expression, as well as the material destruction of communications facilities, pose a very significant threat to independent and investigative journalism, to freedom of expression and to the free flow of information to the public.

States are under an obligation to take adequate measures to end the climate of impunity and such measures should include devoting sufficient resources and attention to preventing attacks on journalists and others exercising their right to freedom of expression, investigating such attacks when they do occur, bringing those responsible to justice and compensating victims.

Defamation

All States should review their defamation laws in order to ensure that they do not restrict the right to freedom of expression and to bring them into line with their international obligations.

At a minimum, defamation laws should comply with the following standards:

The repeal of criminal defamation laws in favour of civil laws should be considered, in accordance with relevant international standards;

The State, objects such as flags or symbols, government bodies, and public authorities of all kinds should be prevented from bringing defamation actions;

Defamation laws should reflect the importance of open debate about matters of public concern, and the principle that public figures are required to accept a greater degree of criticism than private citizens; in particular, laws which provide special protection for public figures, such as desacato laws, should be repealed;

The plaintiff should bear the burden of proving the falsity of any statements of fact on matters of public concern;

No one should be liable under defamation law for the expression of an opinion;

It should be a defence, in relation to a statement on a matter of public concern, to show that publication was reasonable in all the circumstances; and

Civil sanctions for defamation should not be so large as to exert a chilling effect on freedom of expression and should be designed to restore the reputation harmed, not to compensate the plaintiff or to punish the defendant; in particular, pecuniary awards should be strictly proportionate to the actual harm caused and the law should prioritize the use of a range of non-pecuniary remedies.

At the same time, the three special mechanisms recognize that new communications technologies are of enormous value in promoting the right to freedom of expression and the free flow of information and ideas, and express their intention to include this as a topic for discussion at their next joint meeting.

Abid Hussain
United Nations Special Rapporteur on freedom of opinion and expression

Freimut Duve
OSCE Representative on freedom of the media

Santiago Canton
OAS Special Rapporteur on freedom of expression

30 November 2000